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COHABITATION IN NORTH DAKOTA: A SOCIO-LEGAL EXAMINATION OF THE CONGRUENCE
OF THE LAW AND ATTITUDES TOWARDS LIVING ARRANGEMENTS AMONG COLLEGE
STUDENTS

by

James Lee Foster, III
Bachelor of Science, University of North Dakota, 1999

A Thesis

Submitted to the Graduate Faculty

of the

University of North Dakota

in partial fulfillment of the requirements

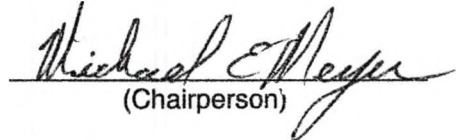
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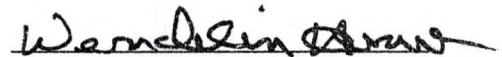
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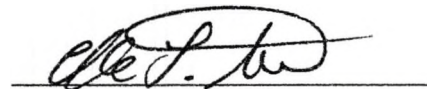
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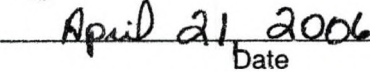

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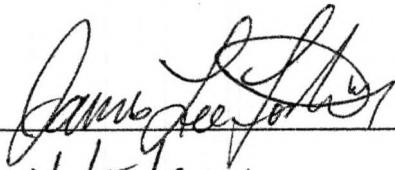
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ABSTRACT

The political wrangling over cohabitation law has been an ongoing ordeal in North Dakota politics in recent years. Even more so since there have been multiple failed attempts to have the State's law banning cohabitation repealed. The purpose of this thesis is to determine attitudes toward cohabitation and its components from a sample of college students. There were a total of 945 participants who took part in the study which called for them to fill out a short survey. The survey consists of three parts.

Part I includes such items as race, sex, gender, etc. basically demographic data. Part II includes survey items seeking information about current living arrangements. These were especially directed at those who were living in cohabitive relationships / households. Part III consists of a series of eleven Likert statements asking students to rate their attitudes toward the issue cohabitation.

Results indicate that an overall majority of students surveyed did not favor the cohabitation lifestyle in general. However, many did agree that the number of couples engaging in these types of living arrangements would increase in the coming years despite the law against it.

CHAPTER I

INTRODUCTION

Even though cohabitation has been an acceptable form of living arrangement in many cultures for quite some time, it has much more slowly become a form of living arrangement in the United States that has gained support over the years. However, there are still those states which have a law banning the practice, North Dakota being one of them.

The purpose of this project is to examine the history, development and evolution of cohabitation law and gather data through use of surveys regarding student attitudes toward cohabitation law. The goal is to try and determine the level of support among college students for the law, which has faced various recall measures put forth by members of the North Dakota Legislature in the past.

Statement of Problem and Purpose

If cohabitation has become such a common form of living arrangement in society then why do some states, such as North Dakota, still ban the practice when the law is rarely enforced? Is there a political initiative in states like North Dakota to try and hold on to the notion of the traditional family and halt its perceived erosion by non-traditional family forms and living arrangements such as cohabitation? Are religious and morality issues coming into play when it comes to the issue of cohabitation?

Hypothesis

It is hypothesized that those people between 18-30 years of age are more supportive of cohabitation because it allows them to experience similar economic and companionship benefits as a traditional family without actually being legally married. Additionally, it is believed that those persons who do not have a strong sense of religion, whose parents have previously divorced, and are more politically liberal, will hold a more favorable attitude towards cohabitation than those who have a stronger sense of religion, are more conservative, and whose parents have never divorced.

Background

Interest in this project came about after reading about House Bill 1448, a proposed North Dakota legislative bill, which sought to protect landlords against housing discrimination lawsuits if they refused to rent to two persons of the opposite sex who were not legally married. Scenarios about what might happen if the bill passed and landlords all across the state began to refuse to rent to unmarried couples began the thought process for this research.

Many questions began to come to mind as to what kind of impact such a bill would have upon North Dakota society and its economy. What kind of impact would such a bill have upon rental housing markets in North Dakota? Would certain segments of the population be denied access to affordable housing? How would this legislation affect college students who might choose to live together so they may share living expenses? What kind of effect would the potential legislation have upon local economies if people, who prefer to live together unmarried move elsewhere to places where cohabitation is legal? If this were the case, how would this affect the economy and the population base of North Dakota? Though this research is limited to gathering and interpreting data relating to attitudes of students, these questions helped put the whole issue of cohabitation into perspective and gather research.

The Problem

What does status with respect to marriage mean?... Perhaps the greatest area of confusion with current law is the term "status with respect to marriage" and also the conflict that the current law has with the North Dakota Human Rights Act. According to North Dakota Century Code, Chapter 14-02.5, Section 2, Subsection 2,

"A person may not discriminate against an individual in the terms, conditions, or privileges of sale or rental of a dwelling or in providing services or facilities in connection with a sale or rental of a dwelling because of race, color, religion, sex, disability, age, familial status, national origin, (or status with respect to marriage)."

Left undefined by North Dakota legislators, this phrase left many people confused as to what living arrangements were covered. Nobody took the time to properly define the phrase 'status with respect to marriage' or think about what impact it would have upon housing issues. Status with respect to marriage could mean anything---single, divorced, separated, engaged, or, in some peoples

eyes...cohabitation. Tenants who wished to live with a member of the opposite sex would certainly view the phrase one way while a landlord might view it another way.

In order to define the phrase 'status with respect to marriage' we must look at the key word here. Many people would immediately pick status; however, marriage should be the key term here because the definition of marriage itself is so vague. According to North Dakota statute, marriage is defined as "a personal relation arising out of a civil contract between one man and one woman to, which the consent of the parties is essential" (North Dakota Century Code: 14-03-01). There is even a little bit of confusion with the wording of the statutes definition. Does the term "personal relation" imply that the couple is married or seeking to get married? Does "civil contract" mean a marriage license or some other form of document? Definitions of what marriage is, varies greatly depending upon where one gets the information from. For example, The American Heritage Dictionary defines marriage as: A legal union of a man and woman as husband and wife; Wedlock; A wedding, or; a close union. Compared to North Dakota's definition, The American Heritage definition is more to the point and inclusive of various types of couple arrangements.

Conflict with the North Dakota Human Rights Act... Before the North Dakota Legislature enacted the North Dakota Human Rights Act in 1983, there was not an established policy prohibiting housing discrimination in North Dakota. After adoption of the Act, which was created to complement Title VIII of the 1968 Civil Rights Act, attention was brought to the prevention of discrimination in housing.

The North Dakota Legislature specified a number of grounds upon which a person engaged in the sale or rental of a property could not discriminate against another person, those being an individual's race, color, religion, sex, national origin, age, the presence of any mental or physical disability, or status with regard to marriage or public assistance.

The Human Rights Act attempts to assure equality of opportunity in obtaining housing and does not act as a mandate to require any landlord or seller to provide housing to anyone who applies. What it does attempt to do is to prohibit discrimination in housing based upon the eight characteristics listed above. The North Dakota Human Rights Act applies to all housing and does not have an exemption or limitation on the number of housing units involved, as does the federal act.

Opinion of the Attorney General

The issue of a claimed conflict between North Dakota's anti-cohabitation law and the Human Rights Act arose and was presented to the North Dakota Attorney General. On May 7, 1990, the Office of the Attorney General for the State of North Dakota issued an opinion to State Representative Judy L. DeMers on the question of whether it is an unlawful discriminatory practice under N.D.C.C. § 14-02.4-12 (see below) to refuse to rent housing to unmarried persons of the opposite sex who desire to live together as a married couple in light of the prohibition against such cohabitation under N.D.C.C. § 12.1-20-10.

The Attorney General determined such a refusal was not an unlawful discriminatory practice based upon the following argument:

"N.D.C.C. § 14-02.4-12 provides, in part:

14-02.4-12. Discriminatory housing practices by owner or agent. It is discriminatory practice for an owner of rights to housing or real property or the owner's agent or a person acting under court order, deed or trust, or will to:

1. Refuse to transfer an interest in real property or housing accommodation to a person because of race, color, religion, sex, national origin, age, physical or mental handicap, or status with respect to marriage or public assistance;

However, N.D.C.C. § 12.1-20-10 prohibits unmarried persons of the opposite sex from openly living together as a married couple. The North Dakota Supreme Court has not ruled on the apparent conflict between N.D.C.C. §§ 14-02.4-12's protection of a person's right to housing notwithstanding the person's marital status, and N.D.C.C. § 12.1-20-10's prohibition against allowing unmarried couples to live as a married couple. However, there has been similar litigation in other states whose laws prohibit both cohabitation and discriminatory housing practices based on marital statutes. In *McFadden v. Elma Country Club*, 26 Wash. App. 146, 613 P.2d 146 (1980) the court held, notwithstanding a statute prohibiting discrimination based upon marital status, a country club could refuse to admit to membership an unmarried woman cohabiting with a man (*Id.* at 152).

The court's holding was based upon the fact the statute prohibiting cohabitation was not repealed when the discrimination statute was enacted. This fact the court said, "Would vitiate any argument that the legislature intended 'marital status' discrimination to include discrimination on the basis of a couple's unwed cohabitation" (*Id.* at 150).

As in *McFadden*, N.D.C.C. § 12.1-20-10 was not repealed when N.D.C.C. § 14-02.4-12 was enacted. Thus, the continuing existence of the unlawful cohabitation statute after the enactment of N.D.C.C. § 14-02.4-12 vitiates "any argument the legislature intended 'marital status' discrimination to include discrimination on the basis of a couple's unwed cohabitation." *McFadden*, at 150. Additionally, where there is a conflict between two statutes, the particular provision will control the general so effect can be given to both statutes. N.D.C.C. § 1-02-07. In this conflict N.D.C.C. § 12.1-20-10 regulates one particular activity, unmarried cohabitation. N.D.C.C. § 14-02.4-12 on the other hand, regulates several bases for

discrimination. Consequently, the conflict is resolved by applying the terms of N.D.C.C. § 12.1-20-10 to this situation.

Therefore, it is my opinion it is not an unlawful discriminatory practice under N.D.C.C. § 14-02.4-12 to discriminate against two individuals who chose to cohabit together without being married." (N.D. Fair Housing Council, Inc. v. Peterson, 2001 ND 81, 625 N.W.2d 551, [¶ 16].

The North Dakota Legislature repealed the discriminatory housing provisions of the North Dakota Human Rights Act in 1999 and 2001 and enacted the Discriminatory Housing Practices Act. During this period, this issue of cohabitation was again the talk of North Dakota politicians and would lead to the drafting of House Bill 1448.

North Dakota Fair Housing Council, Inc. v. Peterson...House Bill 1448 was drafted as a result of a discrimination lawsuit filed against a Fargo, North Dakota, landlord who refused to rent a property to an unmarried couple who were looking for an apartment where they could live together. The defendants in the case, Robert and Mary Peterson, of Fargo, claimed not only was living together in a cohabiting relationship a violation of North Dakota law but it also violated their religious beliefs. Therefore, they refused to rent to unmarried couples.

The plaintiffs who brought forth the suit, on August 26, 1999, were Robert and Patricia Kippen, who claimed that by refusing to rent them a place in which to live the Peterson's violated their rights to housing under North Dakota housing regulations, which provide a landlord cannot deny housing based upon persons, "status with respect to marriage".

Multiple claims for relief were filed by the North Dakota Fair Housing Council on the Kippen's behalf. The first claim alleged the Peterson's violated all three housing discrimination prohibitions set forth in the North Dakota Century Code. The second claim alleged the Peterson's offered differential terms, conditions and privileges of rental on the basis of status with respect to marriage. The third claim alleged the Peterson's indicated and publicized a preference in rental on the basis of status with respect to marriage. The fourth and final claim, which was put forth by the Kippen's only, sought recovery under negligence. The Kippen's were the fourth to file a complaint with the Fair Housing Council against the Peterson's and the Council began to investigate the Peterson's.

The Fair Housing Council conducted investigations of these complaints, which included counseling the complainants, research and designing and implementing two paired sets of housing

discrimination tests. Both sets of tests clearly showed the Petersons had a policy and practice of refusing to rent housing to persons on the basis of their status with respect to marriage.

Claiming it was an "aggrieved party", the North Dakota Fair Housing Council, a private not-for-profit agency primarily located in Bismarck, North Dakota, and with various satellite offices, including Fargo, along with the Kippen's, brought forth the suit against the Peterson's, alleging housing discrimination in violation of North Dakota Century Code, Ch. 14-02.4, and the North Dakota Human Rights Act. The Housing Council claimed due to the Peterson's unlawful policy and practice of not renting to unmarried couples, the Council suffered the following injuries:

- Injury to the Fair Housing Council in the form of economic losses in staff pay resulting from the expenditures of time required to investigate and combat the Petersons' unlawful policy and practice;
- Injury to the Fair Housing Council's ability to undertake other efforts to end unlawful housing practices, such as education, training and counseling;
- Injury to the Fair Housing Council's ability to carry out its purpose;
- Injury to the Fair Housing Councils' ability to serve the public in its effort to eliminate housing discrimination;
- Injury to the Fair Housing Council's ability to resolve fair housing disputes;
- Injury to the Fair Housing Council's ability to find and to make available decent rental housing for persons regardless of status with respect to marriage; and,
- Injury to the Fair Housing Council's ability to ensure rights to the important social, professional, business, economic, and political benefits of associations which arise from living in a community in which persons reside regardless of status with respect to marriage.

On November 22, 1999, the Petersons moved to dismiss the Fair Housing Council, pursuant to North Dakota Rules of Civil Procedure Rules 12 and 17, from the lawsuit for lack of standing, arguing the Housing Council was not an aggrieved person entitled to relief under the housing statute.

Citing a previous case, and the conclusion that the Fair Housing Council "failed to establish it had a real interest in the litigation is not dependent on the claims of injury by third persons," the court ruled the North Dakota Fair Housing Council lacked standing to bring forth a suit against the

Peterson's. The issue of conduct vs. status arose in this case as well when Cass County Judge Ralph Erickson ruled refusal to rent to an unmarried couple is not discrimination based upon marital status. He said the refusal was not about their marital status but only about their "conduct" as an unmarried couple choosing to live together.

Christopher Brancart, lawyer for the Kippen's and the housing council, argued the Human Rights Act's phrase "status with respect to marriage," is unambiguous and clearly would cover an unmarried couple. He said a refusal to rent to them is based on their status of being unmarried, not their conduct of living together (Cole, 2000.)

N.D.C.C. 14-02.4-12(4)...On January 9, 2001, the Fifty-seventh Legislative Assembly of North Dakota discussed House Bill 1448, which was drafted to create and enact a new subsection to North Dakota Century Code 14-02.5-02 of the 1999 Supplement to the Code, as it pertained to rental property for unmarried couples. On January 22, 2001, House Bill 1448 was introduced in the North Dakota House of Representatives. It was introduced by Representative Jim Kapser, R—Fargo, stating:

"This bill will clarify the potential conflict in North Dakota law between North Dakota Century Code relating to housing discrimination with respect to marital status and North Dakota's unlawful cohabitation statute."

As mentioned before, there has been confusion regarding North Dakota law as it pertains to housing discrimination and rights with respect to marriage. There has also been confusion with the cohabitation law itself due to the fact there appear to be two sections of the law that contradict one another.

House Bill 1448, which was an addendum to a section of code already on the books, would allow landlords to refuse persons of opposite gender, who are unmarried and unrelated, rental privileges within their housing units. The Bill was to fall under the housing discrimination section of the North Dakota Century Code and would prevent landlords from being sued for housing discrimination. In effect, its creation "closed" a discrimination loophole within the housing discrimination code; as outlined in North Dakota Century Code: 14-02.4-12:

Discriminatory housing practices by owner or agent.

1. It is discriminatory practice for an owner of rights to housing or real property or the owners agent to deny housing to a person based on race, color, religion, sex, national origin, age, physical or mental handicap, or status with respect to marriage or public assistance;

2. Discriminate against a person in the terms, conditions, or privileges of the transfer of an interest in real property or housing accommodation because of race, color, religion, sex, national origin, age, physical or mental handicap, or status with respect to marriage or public assistance; or
3. Indicate or publicize which the transfer of an interest in real property or housing accommodations by persons is unwelcome, objectionable, not acceptable, or not solicited because of a particular race, color, religion, sex, national origin, age, physical or mental handicap, or status with respect to marriage or public assistance.

House Bill 1448 was passed on March 19, 2001, and was signed by Governor John Hoven on March 27, 2001. The newly amended legislation, which took effect August 1, 2001, did two things. First, it gave landlords and property owners the right to decide whether or not to rent to unmarried persons of the opposite gender who seek to live together in a cohabitive relationship, and second, it allowed landlords and property owners to do this without being charged with discrimination.

Outcome of Court Cases

These statutes can be construed, "so effect may be given to both provisions..." The conflict between the two provisions is not irreconcilable because the statutes can be harmonized to provide an interpretation which gives effect to both provisions. The phrase "status with respect to marriage" contained within N.D.C.C. § 14-02.4-12 is not rendered meaningless by application of the language of the unlawful cohabitation statute to exclude unmarried, opposite sex cohabiters. The statute still serves as a safeguard against several discriminatory housing practices based on status with respect to marriage (N.D. Fair Housing Council, Inc. v. Peterson, 2001 ND 81, 625 N.W.2d 551, [¶ 16]).

Conduct vs. Status

There has been an ongoing debate as to cohabitation as a status, in which case, it could be construed to mean marital status, or if it is a form of conduct, meaning those in these types of relationships choose to be in them. There is a difference between the two. If cohabitation is seen as a form of status then those who feel they have been discriminated against have legal options available to them. If seen as a form of conduct then there is little if any legal recourse for individuals in cohabitational relationships.

Opponents of cohabitation argue it should be seen as a form of conduct, reflecting upon individual behavior and character. Opponents see individuals who live in cohabitating relationships as being of bad moral character and possessing poor judgment.

In *County of Dane v. Norman* (1993), landlord Norman, had a policy of not renting to groups of people who were not related. His policy was challenged on the grounds it violated a fair housing provision prohibiting discrimination on the basis of marital status. In the Dane County Wisconsin Ordinance, Chapter 31, marital status includes cohabiting couples; however, the term cohabitant was not defined in the ordinance. The court adopted a dictionary definition which defined cohabitant in terms of an unmarried couple living together as husband and wife (Zasada, 2002, 551). Based on this definition, the court rejected the argument Norman's policy violated the Dane County ordinance because a group of unrelated people did not fall under the definition of cohabitant, and therefore, the group was not afforded marital status.

Similar Cases

Fargo Women's Health Organization, et al. v. Schafer, et al. (1994)...In 1994, the United States District Court for North Dakota decided a case involving an alleged conflict between the cohabitation statute and the Human Rights Act and concluded it was not unlawful to refuse to rent to an unmarried couple seeking to cohabit:

"The Supreme Court of North Dakota has held an Attorney General's opinion has the force and effect of law until a contrary ruling by a court. The Court has further held opinions of an Attorney General are 'entitled to respect,' and a court should follow them if 'they are persuasive.'"

Fargo Women's Health Organization, et al. v. Schafer, et al., 18 F.3d 526, 530 (8th Cir. 1994) (citations omitted).

In this case, the opinion is highly persuasive, and is consistent with an independent analysis of the question presented. Foremost for consideration is the fact N.D.C.C. § 12.1-20-10 was not repealed when N.D.C.C. § 14-02.4-12 was enacted in 1983; nor was it repealed in 1995 when the discriminatory housing practices statute was last amended and reenacted, despite the issuance of the Attorney General's opinion in 1990. Additionally, when recently presented with the opportunity to speak to the "public policy/morality issue" of N.D.C.C. § 12.1-20-10, the North Dakota Supreme Court declined to address it.

North Dakota Fair Housing Council v. Woeste (2000)...In 2000, the United States District Court for North Dakota decided a suit similar to the one which brought about the creation of House Bill 1448. (*North Dakota Fair Housing Council v. Woeste*, No. A1-99-116 (D.N.D. 2000)). The federal court, analyzing North Dakota law and distinguishing federal cases relied on by the Housing Council, concluded the Housing Council lacked standing to sue under the North Dakota Human Rights Act.

Donahue v. Fair Employment Housing Comm'm, 2 Cal. Rptr. 32 (Cal. App. 1991)...In *Donahue* (1991), a landlord refused to rent to an unmarried cohabitating couple. The landlord and his wife were

devout Roman Catholics who believed sexual intercourse outside marriage is a mortal sin.

California's Fair Employment and Housing Commission sued them for violating California's housing statute. The landlord claimed by forcing them to rent to an unmarried couple, the fair housing laws caused them to violate their religious beliefs. The Court took their argument into consideration using the compelling interest test. The Court sided with the landlord, noting their free exercise of religion was burdened when they were forced to make a choice between their religious beliefs and state law.

Donahue v. Fair Employment Housing Comm'n, 2 Cal. Rptr. 32 (Cal. App. 1991)

Whitehall Properties v. Anchorage Equal Rights Commission (1994), 874 P 2d 274...The Alaska Supreme Court came to a different conclusion in *Whitehall Properties v. Anchorage Equal Rights Commission* (1994), 874 P 2d 274 (hereafter referred to as *Whitehall Properties*) In this case a landlord rejected three prospective tenants because they intended to cohabit with a member of the opposite sex. Even though there are three or more people seeking to live together, the fact that one of the persons was of opposite gender gave the landlord the opportunity to refuse rental based on cohabitation laws. As in the *Donahue* case, the landlord refused to rent to unmarried cohabiters because by doing so he would be going against his religious beliefs. In evaluating his claim for a constitutionally compelled exemption, the court applied the federal compelling interest test.

While the court held *Whitehall Properties* met the preliminary requirements under a state case allowing broad interpretation of the burden requirement necessary to invoke a free exercise defense, it concluded the government had a compelling interest which outweighed the landlord's free exercise interest. The court identified two governmental interests: an interest in "providing access to housing for all," and a separate interest in "preventing acts of discrimination based on irrelevant characteristics" (Wistner, p.1088, 1996). So why did one court come to one conclusion and the other another?

In *Whitehall Properties*, the landlord believed that even cohabitation by members of the opposite sex where there was no sexual activity was "sinful" because it "suggested the appearance of immorality." Thus, the landlord believed living together constituted the "appearance of evil" and would not have rented to them on that basis. The landlord was claiming the housing discrimination statute was burdening him because it forced him to rent to individuals who appeared to be committing a sin.

The government was not coercing the landlord himself into committing this "immoral" behavior. The housing statute was merely requiring the landlords to be exposed to another's conduct which violated his religious beliefs. This exposure would probably only take place in the rental relationship between the landlord and tenants, not in the actual living facility. If the landlord lived in the same dwelling, he would probably be exempted from compliance with anti-discrimination laws, because most fair housing laws exempt small, owner-occupied dwellings (Wistner, 1089-1090, 1996).

In Donahue, the landlords believed non-marital sexual intercourse is a "mortal sin," and "assisting or facilitating such behavior also constitutes a sin." Under this belief, the landlord is actually facilitating the cohabitation by renting them an apartment. Thus, the fair housing statute does directly burden the free exercise of religion of a landlord who believes facilitating the cohabitation of others is a sin (Wistner, 1090, 1996). This is the exact position the Peterson's took when they refused to rent to the Kippen's.

Overhaul of Domestic Relations Laws

Most rental leases do not prohibit an unmarried couple from living together. However, unless there are laws prohibiting discrimination based on marital status, a cohabitating couple may be refused a rental (Duff and Truitt, 1991), or in some cases, removed from the domicile. In some areas, local covenants and homeowners association rules may prohibit cohabitation on their own. In 1974, the United States Supreme Court upheld the constitutionality of such laws (*Belle Terre v. Boraas*, 416 U.S. (Seff, 1995)).

In 1986, a state appeals court in St. Louis ruled that a couple could be ousted from their jointly owned house, citing an ordinance prohibiting an unmarried man and woman from living together. The court stated, in part..."There is no doubt there is a governmental interest in marriage and in preserving the integrity of the biological or legal family" ("Court Rules City May Oust Unwed Couple"...Seattle Times, 1986).

Sixteen years later, proponents of change viewed an overhaul of domestic relations law as a healthy and long needed alteration of an outdated legal structure which did not account for nontraditional unions, among other things (Morrissey, 2002, 36). There is yet no body of legislation which deals systematically with cohabitation. As a result, there is little consistency from state to state

regarding the rights and duties of couples who cohabit (Seff, 1995), which only adds to the confusion of the entire cohabitation issue.

Research Goals

Survey data will be collected and analyzed in an effort to determine level of support for or against cohabitation as a form of living arrangement and to determine if there is a congruence between attitudes and the law, either for or against it, as there have been past attempts by members of the North Dakota Legislature to have the law repealed.

Limitations and Delimitations

There are two delimitations to this study. First, survey data will only be collected from college students. While this group of subjects falls within the age range of those most likely to cohabitate, it may not accurately represent a majority of the renting population. The actual number of single students who are of opposite gender and living together off campus might be low.

A second delimitation for this study arises from the exclusion of the landlord and rental agency perspectives on the issue. These perspectives were not sought mainly due to time and budgetary constraints. It would have been interesting to determine levels of support either for or against cohabitation from those who have the ability to rent units to individuals.

There may be one benefit for not choosing to seek out information from landlords and rental agencies regarding attitudes toward cohabitation and House Bill 1448. Had such requests for information been inquired, it may have caused some landlords to look into the living arrangements of current renters, which may have resulted in negative consequences for those living in cohabitative relationships.

Finally, a third delimitation to this research is that not all of the attitude questions deal specifically with cohabitation per se. Rather; they deal with elements of cohabitation or similar living arrangements.

Overview

With the number of states with laws on the books banning the practice of cohabitation so few, and fewer, if any, of those states having such a ban enforcing such laws, the question arises, why continue to have laws banning cohabitation on the books?

In Chapter II, I discuss prior research examining the legal, societal, and moral issues surrounding the issue of cohabitation. I also discuss how the evolution of law and major historical events coupled with shifts in attitudes, have aided in the increase in cohabitation as a form of living arrangement.

In Chapter III, I discuss the methods used in gathering data for determining attitudes toward cohabitation.

In Chapter IV, I discuss the survey data and its analysis. Survey data collected from students from the University of North Dakota, pertaining to their attitudes toward cohabitation and background information, are summarized and presented.

In Chapter V, I discuss conclusions which can be drawn from this research and offer recommendations for further research involving the issues of cohabitation, cohabitation law and effects on social systems and public policy.

CHAPTER II

LITERATURE REVIEW

Introduction

The growth of cohabitation poses critical questions for demographers and sociologists, some of which are only now being addressed. Early studies dealing with the phenomenon of cohabitation sought to explain the reasons why so many relationships were becoming cohabitative in nature, and mainly focused upon gender roles within the household. More recent studies have examined this form of living arrangement in greater detail by looking at how these relationships function, the effects on those within the relationship, and how these relationships compare to legal marital unions. Researchers have also completed studies examining effects cohabitation has had upon marital satisfaction, family cohesion, welfare of children and economics.

For purposes of this paper, attitudes of university students toward cohabitation are sought. For discussion purposes it is important to look at the societal changes that have helped to shape attitudes towards cohabitation and possibly led to the development of laws against it.

The Emergence of Cohabitation Law: A Brief History

How did American laws against cohabitation come into existence? Were they created as a result of moral or religious convictions or were they created in an attempt by society to hold onto traditional family values in order to preserve a particular way of life or institution, in this case marriage? How long have these laws been on the books and why have some laws banning cohabitation been abolished while others have not? Most importantly, how have laws shaped attitudes toward cohabitation?

The Development of Cohabitation Law... Cohabitation law has its beginnings in family law which can be traced back to England where tradition allowed for two principle forms of marriage: formal marriage and informal marriage, also known as common-law marriage. Common law marriages were recognized when a man and a woman declared an intention to marry one another in the words of the

present tense (Seff, 1995). However, in the mid-1700's, England put an end to the practice of common law marriages by passing the Marriage Act of 1753. This was done in an effort to put an end to clandestine marriage practices, which were those where an element of secrecy applied, no parental consent, or where bigamy was involved, since fraudulent claims to property were an issue (Wikipedia: The Free Encyclopedia) ([http://en.wikipedia.org/wiki/Marriage Act, 1753](http://en.wikipedia.org/wiki/Marriage_Act,_1753), 2005).

Evolution of Cohabitation and Cohabitation Law in the United States... Cohabitation has only recently been viewed and accepted by a majority of society as an acceptable form of living arrangement. At its most basic level, cohabitation is defined as the living together of two persons of opposite gender who are not legally married and who present themselves as being married. Prior to the mid-1960's cohabitation was seen as an immoral practice and was prohibited by most, if not all, states. But how did we get to where we are today? For the answer to this question we must go back to the nineteenth century, when the unacceptability of cohabitation in American society had its beginnings in the fight against polygamy with the passage of two laws specifically enacted and directed against Mormons who were practicing plural marriages, The Morrill Act of 1862 and The Edmunds Act of 1882.

The Morrill Act of 1862 and the Edmunds Act of 1882... Early in the Civil War some Northerners viewed women in polygamous or non-marital relationships as being property of their husband or companion. To them this amounted to nothing short of slavery. As a result, many in the north supported passage of measures which outlawed bigamy in the territories.

The first of these was The Morrill Act of 1862, which was signed by President Lincoln. The law made polygamy illegal but with the Civil War well under way and Utah far from federal authority it was almost impossible to enforce. Attempts made by the federal government to enforce the new law were unsuccessful. Polygamists continued their practices and the government began to formulate new ways to deal with the problem. A new track was taken in 1870 when polygamy opponents attempted to subvert the practice by extending the vote to women in Utah. This was not successful, however, as the women voted to remain in plural marriages.

During the administration of Chester Arthur, Senator George F. Edmunds of Vermont took up the cause by drafting the Edmunds Act of 1882 (also known as the Edmunds-Tucker Act of 1882), which removed the need to prove marriages had occurred. It made a prosecutor's job easier since it

required less evidence to convict someone of polygamy by not having to prove an illegal marriage. The Edmunds Act sought to make living with more than one wife illegal. It defined polygamy as a crime with the wording, "...every person who has a husband or wife living--who hereafter marries another, whether married or single, and any man who simultaneously, or on the same day, marries more than one woman---is guilty of polygamy".

Polygamous living was described as "unlawful cohabitation" and was classified as a misdemeanor, punishable with a 5 year prison sentence, lose of voting rights, the right to serve on a jury or hold elective office. The United States government enforced this law by sending in scores of federal officials to question men, women and children to seek out those people practicing polygamy (Porter, 1998). More than 1,300 men were imprisoned under the terms of this measure (The Arthur Administration: Edmunds Anti-Polygamy Act of 1882) (<http://www.u-s-history.com/pages/h734.html>).

The Edmunds Act reflected the anti-polygamy sentiment of the time among members of Congress, and a majority of American society. This act effectively paralyzed the Mormon society by making members ineligible to hold public office, to vote, or to serve on juries (Zasada, 541). By doing this, those in power prevented those who lived in polygamous relationships from entering into positions of influence and power. In effect the Edmunds Act had a dual effect by banning the practice of polygamy and alienating the Mormon Church by singling out a certain group of individuals and punishing them for their religious beliefs and practices.

The Edmunds-Tucker Act officially dissolved the Church of Jesus Christ of Latter-day Saints. All funds were confiscated and the Church was not allowed to collect tithing. All property valued over \$50,000 became property of the federal government. All Mormon schools were abolished. Mormons could not vote, serve in political office or on juries (90% of the population was Mormon at the time). Women voting rights were abolished and children of plural marriages were disinherited.

In 1890, the Edmunds-Tucker Act was declared unconstitutional by the Supreme Court and legislation was pushed in Congress to make it illegal for a Mormon to be a citizen of the United States. The new president of the Church, Wilfred Woodruff, was struck by how close the Church was to being destroyed by the government of the United States and in 1890 issued a

proclamation, called the Manifesto, declaring that Mormons would no longer practice polygamy. (Porter, 1998).

This would be the main problem with the Act and would eventually destroy it. The constitutionality of the Edmunds Act was brought into question and found to violate Mormon's rights to Freedom of Religion and was later repealed.

Although the Edmunds Act was repealed, and the anti-cohabitation criminal offense was history, laws against polygamy itself still remained. Without the benefit of the Edmunds Act prosecutors would have a more difficult time proving a man was married to, or living with, more than one woman. It was also around this time that American society began to undergo social and demographic changes that would lead to changes in attitudes about cohabitation. One change which had an impact was the rise of the Industrial Revolution and migration of people from rural to urban communities.

Men on the Move: From Farm to City and Greater Independence... During the course of the latter half of the nineteenth century and rise of the Industrial Revolution, men were beginning to become less attached to the land as a means of financial prosperity. As a result, men were able to leave the farm and head to larger cities to find employment. This change allowed men to earn cash for labor and become less economically dependent upon a wife and family. They also had the choice whether or not to get married, which left women and, in some cases, children vulnerable to poverty and struggle.

To the men of the time women and children were no longer seen as a necessity for life and prosperity, but rather, a drain upon his money and resources. If anything, men were comforted with the knowledge they were needed by women in order to survive and they alone had the power to either enrich or destroy a woman's life. These beliefs would come back to haunt men as it angered women and laid the foundations for the feminist movement and united women from all walks of life in the twentieth century. It would be a unity that brought about major change within American society, not only for women, but also the traditional American family. Perhaps the greatest influence upon women was that of the feminist movement.

The Feminist Movement and Women's Advances: A Link to the Rise in Cohabitation?... The feminist movement had a strong influence upon women resulting in them re-evaluating their attitudes toward

men, marriage, success, and their place in society. With the coming of the Civil Rights movement and other significant social changes, women of the 1960's questioned their place in society and demanded better and more equal access to the workplace. This era came to be known as the Second Wave Feminist Movement.

Events surrounding the changing role of women, most notably a massive surge into the male dominated workforce, allowed women to possess a greater sense of individuality and self-reliance. Women were beginning to discover they could make it on their own and began to realize marriage was no longer a necessity for survival; rather, it was becoming an option. As a result, women's attitudes toward family and homemaking began to shift toward holding a career and obtaining success. Many more women began supporting themselves and found they could make it on their own without relying on a husband.

Societal changes occurred as a result of the second wave of the feminist movement and had the effect of relaxing long held views against pre-marital sexual relations and living arrangements which were considered inappropriate prior to the rise of the modern women's rights movement. Inequalities faced by women in the workplace and society which, in the mid-1960's, placed prosperity and male dominance over principles and fairness forced women to rise up and demand equal treatment in both the workplace and society.

Changes such as these lead to shifts in family formation and rates of childbirth. Some women chose to never enter into marriage, others were waiting longer to marry and have children, putting career before family, while others had a harder time making a decision between a career and family life. The prospect of having a "family", while maintaining the element of independence from the bonds of marriage, for some, were realized through the cohabiting relationship.

By choosing to enter into cohabitative living arrangement or live alone, women could maintain control over both their professional and personal lives without worrying about the bonds and commitment of marriage or family. This is not to say women never had to worry about childrearing since many women who lived alone and in cohabitating households had children while remaining in the workforce.

Women gained options other than marriage for financial support, and the support of their children, in the form of paid employment and welfare systems. These options afforded women the freedom to decide if they wanted to marry or not (Goldscheider and Waite, 1986). During the 1980's, however, the women's movement came under attack by critics who blamed feminists for the plight of mothers now doubly burdened with family responsibilities and a full time job.

For many women of the time who entered the workforce, the road to marriage and family was significantly delayed. Those who chose to be married and pursue a career entered into marriage during a time of rising divorce rates and would soon find the demands of both marriage and career were often too hard to maintain, the result being separation or divorce. The same held true for many married women who chose not to work, as they found themselves the object of ridicule by husbands who came to view their wives as a financial burden.

Some who separated or divorced might enter into new relationships, deciding to live together without being formally married, thereby forming a cohabitative relationship. This type of scenario led to an increase in cohabitative relationships during the late 1970's through the mid 1990's. Many in these relationships saw the living arrangement as a sort of trial marriage, one where they could see if the relationship would survive in a more intimate and concrete setting.

As a result of these living arrangements, couples who lived together in cohabitative relationships rose from one out of every ten before the 1960's, to 5-7 out of every ten during the mid-1970's and 1980's. This had an effect upon public attitudes with an increasing proportion of society beginning to view cohabitation as more acceptable. Other "movements" impacted attitudes toward cohabitation during the 1960's to 1980's which were political, religious and social in nature.

North Dakota Law and the Cohabitation Ban: A History... There has been a ban on cohabitation in North Dakota since the late nineteenth century. In 1895, North Dakota's state code provided cohabitation was illegal and punishable by law, as follows:

Unlawful cohabitation—Punishment—Every person who lives openly and notoriously and cohabits as husband or wife with a person of the opposite sex without being married to such person, is guilty of a misdemeanor and shall be punished by imprisonment in the county jail for not less than thirty days nor more than one year, or by a fine of not less than one hundred dollars nor more than five hundred dollars.

Terms of this statute, which differs slightly from the current statute on record, remained largely undefined and unchanged until 1938, when the North Dakota Supreme Court offered its ruling in the case of *State v. Hoffman*, which interpreted and defined the language of the statute. The term "openly" was defined as, "living together the same as a husband and wife would live together, undisguised and unconcealed, as opposed to hidden and secret." (*Zasada*, 543 (citing *Commonwealth v. Wardell*, 128 Mass. 52, 53 (Mass. 1880))).

The Court defined "notoriously" as generally known or acknowledged." This meant it was common knowledge in the community that two unmarried people of opposite gender were cohabiting together. The court also stated the couple must have lived and acted in such a way that people who noticed them would be justified in concluding or believing that they were living in the same house presenting themselves as husband and wife (*Zasada*, 543 (citing *Copeland v. State*, 133 P. 258, 258 (Okla. Crim. App. 1913))).

Lastly, the Court interpreted the term "cohabits as husband and wife" as a requirement an unmarried couple living together were having intercourse with each other the same way they would if they were married (*Zasada*, 543). The Court noted an unmarried couple did not have to act any more "openly" or "notoriously" than any married couple would; however, the quality of living of the unmarried couple must have been comparable to a married couple (*Zasada*, 543 (citing *Leonard v. State*, 153 S.W. 590, 591 (Ark. 1913))).

North Dakota Century Code Section 12-22-12 remained virtually unchanged until the beginning of the 1970's, when the Legislature appointed an interim committee to draft a new criminal code. The interim committee considered whether to recommend repeal of the prohibition on cohabitation. One member argued for keeping a prohibition clause to prevent fraud. In subsequent drafts requests were made to allow for a provision to make cohabitation illegal if the purpose was only to defraud a person or person's, of money or property after a death, thereby preventing unmarried cohabiters from collecting insurance monies or property that they would not be entitled to due to not being legally married.

Efforts to Repeal North Dakota's Cohabitation Law

House Bill 1403: (1991)...In the early 1990's, an effort was made to have the cohabitation law repealed from North Dakota's Century Code. In 1991, House Bill 1403 was introduced. The legislator who had requested an attorney general's opinion in 1990 on the issue as the primary sponsor. She testified, "As you will see, the Attorney General's Opinion of May 7, 1990 found it was not an unlawful discriminatory practice under N.D.C.C. 14-02.4-12 to refuse to rent housing to unmarried persons of the opposite sex who desire to live together." The House of Representatives defeated the bill by a vote of 27 yeas and 78 nays.

House Bill 1175: (2003)...Introduced by Representative Ekstrom and Senator Christenson on January 7, 2003, House Bill 1175 sought to amend and reenact subdivision b of subsection 1 of section 23-07-07.5, which was repealed by S.L. 2003, ch 211 § 27; and section 23-07.7-01. These sections pertained to sexual offenses, specifically, medical testing for sexual offenses, of which unlawful cohabitation is considered such an offenses. House Bill 1175 also sought to repeal section 12.1-20-10 of the Century Code. This section deals strictly with unlawful cohabitation.

23-07.7-01. Court-ordered sexual offense medical testing.

The court may order any defendant, charged with a sex offense under chapter 12.1-20 and any alleged juvenile offender with respect to whom a petition has been filed in a juvenile court alleging violation of chapter 12.1-20, to undergo medical testing to determine whether the defendant or alleged juvenile offender has any sexually transmitted diseases, including a test for infection with the human immunodeficiency virus or any other identified positive agent of acquired immunodeficiency syndrome.

The court may not order a defendant charged with violating section 12.1-20-10, 12.1-20-12.1, or 12.1-20-13 or an alleged juvenile offender with respect to whom a petition has been filed in a juvenile court alleging violation of section 12.1-20-10, 12.1-20-12.1, or 12.1-20-13 to undergo the testing authorized by this section. The court may order the testing only if the court receives a petition from the alleged victim of the offense or from the prosecuting attorney if the alleged victim has made a written request to the prosecuting attorney to petition the court for an order authorized under this section.

On receipt of a petition, the court shall determine, without a hearing, if probable cause exists to believe a possible transfer of a sexually transmitted disease or human immunodeficiency virus took place between the defendant or alleged juvenile offender and the alleged victim. If the court determines probable cause exists, the court shall order the defendant or alleged juvenile offender to submit to testing and a copy of the test results be released to the defendant's or alleged juvenile offender's physician and each requesting victim's physician.

The physicians for the defendant or alleged juvenile offender and requesting victim must be specifically named in the court order, and the court order must be served on the physicians before any test.

On January 13, 2003, the Human Services Committee recommended HB 1175 be placed on the calendar, with a vote of 12 Yeas and 1 Nay. On January 14, 2003, the bill had its second reading before the house. With a committee recommendation of passage, a final vote on bill was called. The voting resulted in passage by the North Dakota House with a final vote of 60 Yeas and 32 Nays.

The North Dakota Senate received the bill from the House on January 15, 2003, where it received its first reading there on February 17, 2003. On March 3, 2003, a motion to return the bill to the Senate floor from the Human Services Committee, only to be re-referred to the Government and Veterans Affairs Committee was put forth. This motion was granted. On March 28, 2003, the Government and Veterans Affairs Committee recommended HB 1175 be placed on the calendar without recommendation. On April 1, 2003, HB 1175 was voted upon by the Senate for passage and was defeated by a vote of 21 for and 26 opposed.

House Bill 1184: (2005)...Again, with much of the same language as before, North Dakota Legislators sought to have the law against cohabitation repealed. This Bill was created to enact a new section to Chapter 12.1-31, of North Dakota's Century Code, as it related to deceptive marriage practices. It also sought to amend and reenact the requirements for medical testing after sexual offenses had occurred. Introduced in the House on January 1, 2005, the bill was referred to the Judiciary Committee. After an initial Committee Hearing on the bill, in which the Committee recommended the bill be passed and placed on calendar for vote, the House, on January 19, 2005, failed to pass the final version of the bill. There were 37 yea votes and 52 nay votes.

Cohabitation Rates Rising In North Dakota and Nation---Possible Backlash?

Census figures show the rate of cohabitation among North Dakotans is on the rise and households headed by married couples are on the decline. Although a majority of households are headed by married couples; this number has dropped from 142,374 in 1990, to 137,433 in 2000, a drop of 4,941 households. The number of married couples raising children has also dropped, from 70,763 in 1990 to 62,002 in 2000, an approximate decrease of eight percent. Contrasting these downward figures, cohabitating couple household figures increased from 5,338 in 1990, to 11,379 in 2000, an increase of 113%. (Grand Forks Herald, 5-22-01). The reason for the decline in marital

status and raising of children in traditional family households and the rise in cohabitation has occurred due to changes in attitudes and acceptability.

Thornton (1995) states the meaning of cohabitation has shifted because the meaning of marriage itself has shifted in that marriage offers fewer benefits relative to cohabitation now than in the past. Most young people expect to marry and believe it is important to have a good marriage and family life, but most do not believe they must marry to live a good life. The meaning of cohabitation and non-marital relationships depends upon the expectations of those who form the union and on individuals' own experiences within the relationship (Seltzer, 2000).

The Impact of Attitudes and Social Movements on Public Policy and Family Formation

Changes in attitudes concerning sex roles and family issues progressed from the late 1950s and continued on through the early 1970s, allowing more liberal approaches towards unmarried living arrangements and births to parents who were not married. These more liberal attitudes began to turn more conservative again in the late 1970s and early 1980s when America was trying to rebuild its position on the world stage and return to a period of prosperity, which would bring about a wave of pride and dignity in America not seen in decades. These attitudes paralleled broader societal changes related to religious beliefs, political orientation and civil liberties (Thornton, 1989, 874; Turner, 1990, 186).

Although it is still considered illegal to live in a cohabiting relationship in a handful of states, laws banning cohabitation in those states are very rarely, if ever, enforced. This is because most states where cohabitation is still illegal have decriminalized "consensual sexual acts" among adults who are not married (Popenoe and Whitehead, 1999), which were a major component of many anti-cohabitation laws.

Arguments supporting laws against cohabitation, where they still exist, have continued to focus on the fraud prevention argument, which is more of a government interest, when welfare programs are abused by cohabiters. There is also the notion laws banning cohabitation are still in effect for the purpose of preventing the destabilization of the traditional family.

Political and Religious Affiliations, the Sexual Revolution and Social Change: Impacts upon Attitudes toward Cohabitation

Wilhelm (1998) studied the relationship between political affiliation and attitudes toward cohabitation. Specifically, she examined the political climate of the 1960s and 1970s prior to and after the rise in cohabitation began. She argues as a result of the left-oriented political demonstrations of the 1960s, which were often organized and fueled by students protesting such events as the Vietnam War and supporting equal rights for women and minorities, cohabitation became a popular form of living arrangement among those within these movements.

Wilhelm notes that the rise in cohabitation evolved in a three-stage process, based on a model developed by McAdam and others. The model proposed that social movements may have affected aggregate change in the life course patterns of those coming into adulthood in the late 1960's to mid 1970's (who sought to live in cohabitative relationships). This process (Table 1) explains how cohabitation, while it wasn't new during the 1960s and 1970s, grew in popularity and eventually became a part of mainstream society.

Mannheim proposed that the cohort to which an individual belongs is a structural location similar to social class. Birth cohorts provide individuals with a common location along a dimension which is not temporally, but economically and socially, based. He reasons that unique factors shape and influence each cohort because the members of these cohorts experience a very similar social and cultural environment, particularly during their formative years (Wilhelm, 1998; 292).

Social change for Mannheim is a process which occurs as new generations, or cohorts, view their world through fresh eyes, accepting from their elders only what resonates with their own experiences, while at the same time the passing of older generations allows the forgetting, or fading, of memories which resonate primarily with the previous generation's members. This clearly leads one to consider the importance of the social, political, and cultural context each cohort confronts in shaping its experiences, especially insofar as their context is continually in flux.

Mannheim posits within a generation various generational units or segments within cohorts, share similar interpretations of, and responses to, their circumstances. Wilhelm (1998) proposes that whether an individual decides to cohabit, thereby deviating from an accepted social norm will be largely determined by the period during which he or she came into adulthood, as well as his or her

structural location during that period. This could explain the rise in cohabitation during the late 1960's and early 1970's when members of the younger generation were going through periods of extreme social change and upheaval. In addition, family-of-origin factors, which will change from one generation to the next, tend to influence a number of adult life events including age at marriage, divorce, and non-marital childbearing (Brown, 2000).

Two additional major aspects of long-term social change may explain the rise of cohabitation. The first may be labeled "cultural". Rising individualism and declining secularism figure prominently in this category. The former refers to the increasing importance of individual goal attainment over the past few centuries and the latter to the decline in religious adherence and involvement. A more proximate and direct cultural source of the rise in cohabitation is the "sexual revolution", which eroded the main grounds for earlier disapproval of cohabitation. Once the stigma of premarital sexual relations was removed cohabitation was free to escalate. Thanks to the sexual revolution and the increase in cohabitation rates men had greater access to wife-like social and sexual services outside of marriage than previously, reducing their incentive to make a long term commitment towards the financing and support of women (Waite, 1986). In the late 1960s and early 1970s, about eleven percent of adults lived together before their first marriage. By the early 1980s, that share had risen to forty-four percent (Waldrop, 1990).

For young persons graduating from high school in the early 1970's marriage resulted in a break from the residential and financial dependence of childhood far more often than did finishing school, pursuing higher education, entering unmarried parenthood, or even beginning full-time employment (Waite, 1986). Marriage became financially impossible for young men who received low wages, prohibiting them from supporting a family. Marriage also became less attractive for those women who were beginning to make it on their own.

The second set of factors is generally labeled "economic". This set ranges from broad conceptualizations of the massive social changes wrought by industrialization to narrower ones which focused on women's changing roles in the labor market and concomitant shifts in values and attitudes about gender roles. (Smock and Gupta, 2000).

Religion

One question this paper seeks to answer is what role religion plays in shaping attitudes toward cohabitation? More importantly, how does one's religious participation; influence the decision on whether or not to cohabit? This is important because religious affiliation plays a role in determining many dimensions of family life, including marriage, divorce, family-size, and premarital sex.

In one particular study, Thornton, Axinn, and Hill (1992), sought to determine the effects of religious affiliation on various dimensions of union formation: the total union-formation rate; marriage and cohabitation treated as competing risks; and marriage, ignoring cohabitation. They found low levels of religious importance and participation are related to high rates of cohabitation and low rates of marriage since less religious young people are much more likely than their more religious peers to cohabit than to marry (Thornton, Axinn, and Hill, 1992, 647).

The cohabitation experience of young adults may also be influenced by the religious commitment and participation of their parents. Young people are often socialized to adopt their parents' religious denomination and adhere to their parents' levels of religious commitment and participation (Thornton, Axinn, Hill, 1992, 631). Therefore, by adopting their parents religious convictions and level of commitment, young people who come from strong religious backgrounds and maintain those convictions after leaving home are less likely to enter into a cohabitative relationship before marriage and have a less favorable attitude towards cohabitation in general.

Other research has shown the rise in divorce and cohabitation rates during the 1960's and 1970's had a negative effect upon the importance and centrality of religion in everyday life for some as the rate of religious attendance declined somewhat during this time (Glenn and Kramer, 1987, 811-825). It is believed the downturn in religious importance and participation has brought about change in familial trends and living arrangements in America. Laumann, et al. (1994) and Tanfer (1987) found attending church infrequently significantly increases the odds of cohabitation. However, research has shown only when religious affiliation itself is analyzed, there is no clear predictor of cohabitation (Bumpass and Sweet, 1989; Laumann, 1994). This was the case for all denominations.

Three-Stage Process by Which Social Movements May Have Affected Aggregate Change in Life-Course Patterns

Stage I: The conscious questioning of traditional life-course patterns by individuals who were active in the New Left political movements of the 1960's and 1970's.



- Active in questioning broad social norms.
- Questioning may have carried over into personal lives.
- Activists began to question societal norms governing personal lives.
- Activists more likely to cohabit than others---behavior played role in increasing acceptability of cohabitation.

Stage II: Deviations from traditional life-course patterns became embedded as alternatives in the specific sub-cultural locations where New Left political movements were centered.



- Politically active college campuses.
- Diffuse as alternatives to individuals directly tied to first stage deviators (siblings).
- Those directly connected by network ties or geographic space would be more likely to consider cohabitation.

Stage III: Initially deviant life-course patterns become more generally available alternatives to a larger subset of American youth, who can be seen as conforming to alternative life-course patterns instead of consciously choosing to deviate from established norms



- Individuals who cohabit are not deviating---they are conforming to a readily available alternative.

Figure 1: How Social Movements Affect Life-Course Pattern Changes

Religious leaders and conservative politicians have historically frowned upon the practice of cohabitation, and continue to define those who live in such relationships as a "couple living in sin". In most religious faiths, couples who live in cohabitative relationships are socially stigmatized within the confines of their faith and prevented from being married in the church and are also forbidden from holding leadership positions within the church. These "punishments" all but assure the couples alienation within the church without actually banishing them from worship. To other members these couples are seen as an eyesore of the church.

Could religious objection toward cohabitation be waning though? Maybe so. Some religions have even developed "commitment ceremonies" as an alternative to marriage ceremonies. These ceremonies are mainly intended for same-sex couples and the elderly. However, as society has changed over the course of the last twenty to thirty years, so too have religious institutions of all faiths. It is easy to imagine if religious institutions attitudes toward same sex couples have changed, then individual attitudes about cohabitation, it is suspected, have shifted to a more tolerant attitude as well.

For many in American society the act of cohabitation, and those whom cohabit, are no longer associated with sin, social impropriety or pathology, nor are cohabiting couples subject to much, if any, social disapproval (Popenoe and Whitehead, 1999). Due to these shifts in attitudes, some states repealed their laws against cohabitation. Other states, such as Texas, began recognizing common law marriage as a legal form of family, while still banning cohabitation per se, as long as several requirements were first met. Common law marriage in Texas is recognized only if: the couple makes their intent to be married known to public officials; use the same last name; file a joint tax return; and live together for a significant amount of time; usually six months or so.

Intergenerational Effect of Attitude and Experience toward Cohabitation among Children

Demographers have been working for decades to develop models of the timing of family formation and have, in recent years, looked toward intergenerational effects of the timing of family formation for answers. These studies have ranged from attitudes about cohabitation and marriage to desires among parents of young couples for grandchildren. A majority of studies have attempted to

determine the effects of these intergenerational influences upon family formation attitudes and events.

In a 1991 study, Thornton examined the intergenerational effects of parental marital experience on the marital and cohabitational behaviors of their children. Thornton focused his research on a set of variables which were relevant to the marital histories of their parents. The mechanisms are as follows: status attainment, social control, and earlier age of maturation, parental home environment, attitudes toward nonmarital sex and cohabitation, and finally, attitudes toward marriage. He concluded children whose mothers married young and were pregnant at time of marriage enter into cohabitating and marital unions at a substantially higher rate than children whose mothers neither married young nor were pregnant when married.

Thornton found five of the six variables: status attainment, social control, earlier maturation, parental home environment, and attitudes toward non-marital sex and cohabitation—correctly predicted the positive influence of a parental marital dissolution on the cohabitation rate. These variables also predict a positive effect of a parental disruption on the marriage rate (Thornton, 1991). This means people's attitudes toward marriage were either positively or negatively affected depending upon the parent's marital history.

Axinn and Thornton (1993) sought to determine the extent to which the mother and child's attitudes about cohabitation, measured when the child was a teenager, influenced the child's subsequent marital and cohabitating experience. They found the positive trend toward acceptance of cohabitation led to an increase in the overall rate of entering co-residential unions and to a decision by many young couples to enter cohabiting unions rather than entering marriage directly (Axinn and Thornton, 1993).

Attitudes toward Cohabitation and the Cohabitation Effect upon Marriage

How do attitudes toward cohabitation affect an individual decision to either enter into a cohabitative relationship and live together unmarried or get married? What characteristics differentiate those individuals who tend to live together in a cohabitative household and those who live in married households? What effect do these varying characteristics have upon union stability? It is this cohabitation effect, the positive relationship between cohabitation and marital instability which

has garnered the most attention from family sociologists in particular, many of whom believe the institution of family is in crisis as a result of cohabitation. There are three reasons, or explanations, which may account for the cohabitation effect.

First, the cohabitation effect is seen as an artifact of union duration, basically, a normal decline in romantic satisfaction in the early years of a union. Cohabitors, being further along in the living together stage when they marry, encounter the decline in romantic satisfaction sooner than those couples who choose to delay living together until marriage. Therefore, cohabiters are perceived to experience problems sooner than those who delay living together prior to marriage.

In all actuality, the rates of decline in romantic satisfaction are probably similar for both groups. Other research, cited in Smith's article, indicates the decline in marital happiness and satisfaction may result from the increased labor-force participation of women and the difficulty of families adjusting to the changes in gender roles and the division of domestic work. (Smith, 1999).

Second, cohabiters are more likely to possess characteristics which are also risk factors for divorce. Cohabitors are more likely to come from families where a parental divorce has occurred. Cohabitors are more likely to be less educated than their married counterparts, have a lower income, be non-white, of a younger age group, had a baby and raised a child alone prior to marriage. Those who are divorced are more likely to enter into a cohabiting relationship rather than remarry right away. Those who have never been married are less likely to enter into a cohabitative relationship, unless they have some of the characteristics listed above.

Attitudes also play an important role in the cohabitation effect. Those who hold a greater acceptance for divorce and who rarely attend church services are more apt to find marriage in and of itself less important as a life goal and have less of an attachment to parents and other relatives (Clarkberg, Stolzenberg and Waite, 1995).

Finally, the third explanation of the cohabitation effect is that the act of cohabiting causes further relationship instability. It does this by altering a person's view of relationship values. Those in cohabiting relationships are less likely to be as committed to the relationship as non-cohabiters. They are more likely to opt for the easy way out of a relationship should it begin to falter. Therefore, the

threshold for leaving a relationship is lowered by frequent cohabiting, leading to lower commitment and relationships of subsequently decreasing quality.

Young couples often find themselves unprepared for the realities of marriage and family life. As a result they repeat the same mistakes they are attempting to avoid (Martin, et al., 2001). Even though cohabitation remains much less institutionalized than marriage, its dramatic growth in recent times could be accounted for by the ability of its participants to dissolve the union quickly which is an attractive option for those who enter into these relationships.

Some have argued that the retreat from the traditional family results in widespread rise in individualism at the expense of the collectivity; changing mores regarding sexuality and unmarried cohabitation; and reducing the stigma associated with unmarried pregnancy and motherhood (Bumpass, 1990; Thornton 1995; Popenoe 1996; Lichter, McLaughlin and Ribar, 1997). These changes in attitudes have altered the landscape of the American family and are laying the foundation for a crisis within our society by sending the wrong message to those of the younger generation who are now beginning to partake in such activities and relationships.

By 2000, between half and three-quarters of all non-marital relationships were of a cohabiting nature. This increase in numbers is due to a number of changes which have taken place, in both attitudes and laws over the course of the last thirty years.

Overview for the Rise in Cohabitation Rates

According to Ronald Rindfuss, Professor of Sociology at the University of North Carolina's Carolina Population Center, "Cohabitation in the U.S. was relatively unheard of prior to the late 1960s" (Larson, 1991). Reasons for the rise in cohabitation are varied. Since the 1960's, people have become more tolerant of alternative lifestyles and social pressure against premarital sex has declined (Larson, 1991). In addition, fear of sexually transmitted diseases has encouraged many people to opt for long-term relationships which include cohabitation. Greater employment and educational opportunities for young people, economic hardships, and the decision of large numbers of women to delay marriage to pursue careers, and higher divorce rates, also have contributed to an increase in the number of unmarried couples living together (Thompson and Hickey, 327-328).

For many young adults, cohabitation has become a staging ground for marriage. For others, cohabitation is a temporary living arrangement motivated by romance, convenience, and economic benefits. It thus provides a staging ground for evaluating potential marital partners and fostering better matches in marriage (Blackwell and Lichter, 2000). Only about one-third of young people today agree that it is better to get married than to spend one's life being single, and three fifths express moral acceptance of cohabitation before marriage (Thornton 1989; Lichter, McLaughlin and Ribar, 1997).

The Institute for American Values (1996) has suggested the current trends regarding divorce and remarriage have modified societal attitudes about cohabitation and premarital sex (Martin, et al., 2001). The rise in divorce and the delay in marriage have had a dramatic consequence in view of most women's continued commitment to family, namely the rise of the female-headed family. Moffitt and Rendall provide a thorough account of this rise, and show how the incidence and duration of single-parent households have increased for women. They document women increasingly entered sole parenthood via non-marital childbearing instead of divorce in the 1970's and 1980's (Goldscheider, 478).

Between 1970 and 1993 the number of cohabitating couples increased 600%, growing from 523,000 to 3.5 million (U.S. Bureau of the Census, 1997b). They now comprise about 7% of all American households (Farley, 1996). Although public attitudes have grown more tolerant of unmarried adults living together (Spanier, 1989), which has allowed for the rise of cohabitation levels, laws have been slower to adjust. Even though there has been increased public acceptance of cohabitation among certain segments of society, it faced difficulty achieving widespread acceptance through the changing or repeal of some state laws which prohibit it. How cohabitation is viewed by those who make and interpret laws is a primary reason for the delay in such laws catching up with public attitudes.

CHAPTER III

METHODOLOGY

Survey Data

Survey data collection began in September 2001 and concluded in February 2002. During this time frame students enrolled in various sociology and criminal justice lecture courses were asked to voluntarily complete a survey which sought information about their demographic background, current employment information, current housing information, parental marriage history, any current or prior cohabitating experiences, and attitudes about cohabitation and the current state of the traditional American family.

Instrument Development

The survey used to collect data for this study was developed from a combination of other instruments, a majority of which came from a prior study dealing with attitudes relating to cohabitation. This study, conducted in 1978 by Carl Danziger, examined the role cohabitation was having in shaping attitudes about the institution of the 'traditional American family'. His work was published in a manuscript entitled, 'Unmarried Heterosexual Cohabitation'.

Sample Selection

In addition to the access to the sample being studied, this researcher chose to survey college students due to the fact that a majority of those who cohabit together fall in the age range of 18-30 years of age. Furthermore, there are many rental properties in and surrounding Grand Forks. It was assumed since about half of all UND students live off campus some would choose to cohabit with a significant other or member of the opposite sex. The survey also allowed participants to express their attitudes towards cohabitation regardless of whether or not they had lived or are living in a cohabitative relationship or if they lived on or off campus at the time of survey.

Measures

In addition to twenty-one general socioeconomic and background questions, participants were asked to provide answers to 11 Likert-scale items designed to determine attitudes toward courtship, cohabitation, marriage, divorce and traditional family structure. This section focused mainly upon elements and opinions that those who cohabit have historically offered as their reasoning for living in cohabitating relationships. Respondent's answers were entered into SPSS for analysis. Descriptive and Frequency statistical analysis were conducted as were univariate and bivariate analysis.

CHAPTER IV

FINDINGS

Univariate Analysis

Demographic Data

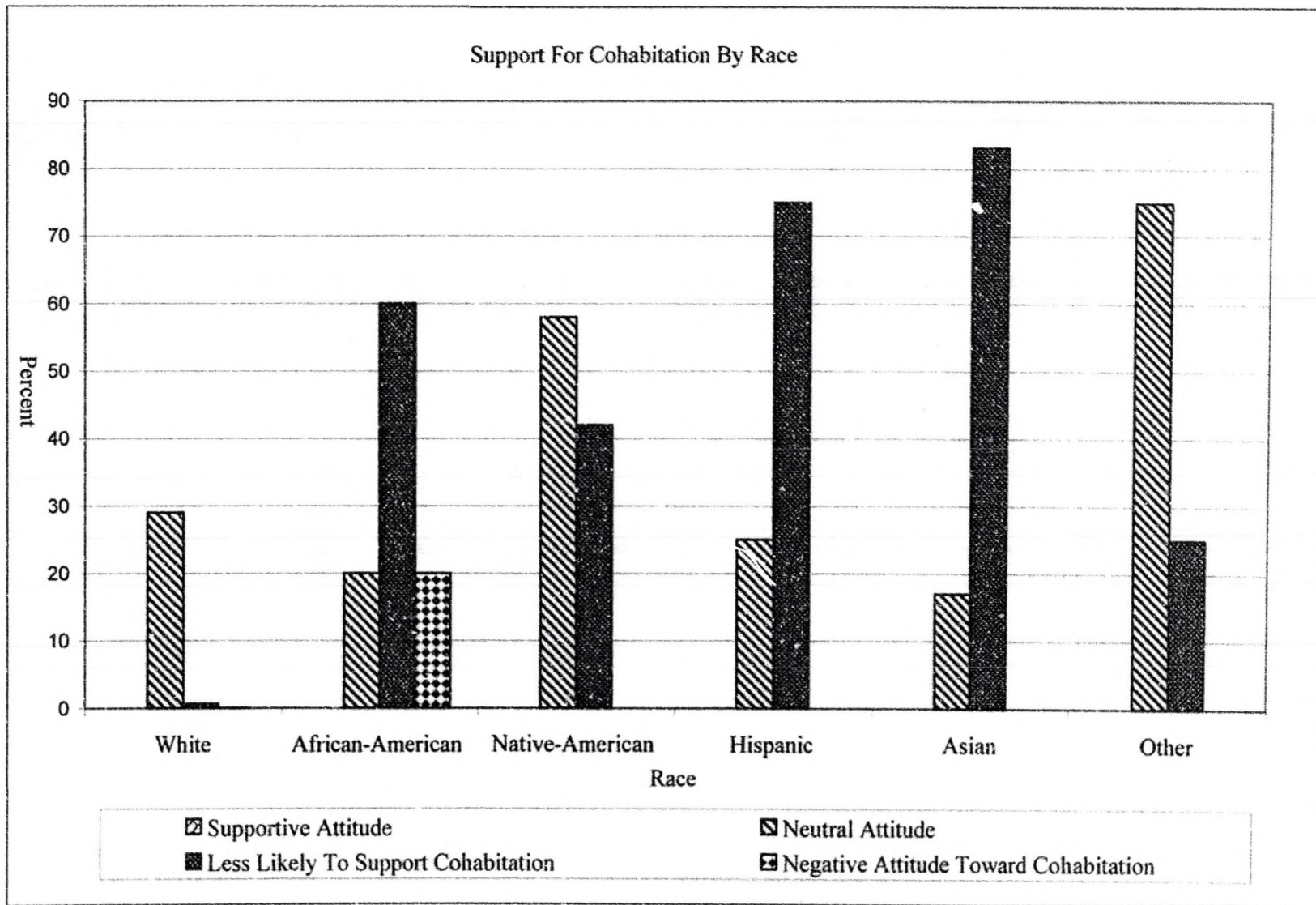
Of the 944 students who participated in the study, 935 students (N=935) completed the attitude portion (Section III) of the questionnaire. Those cases that did not complete the attitude portion of questionnaire were removed from analysis. Of the valid cases who completed Section III of questionnaire; 38.2 percent were male and 61.7 were female; 95.3 percent of participants were Caucasian, .5 percent were African-American, 2 percent were Native-American, 1 percent were Hispanic, .6 percent were of Asian descent, .4 percent listed 'other' as being their racial classification, and 1 respondent did not indicate racial identity. Participants ranged in age from 18-56 years of age; with 96 percent (895 students) being between 18 and 24 years of age.

Fifty-four percent of respondents indicated they either lived in an apartment alone, or lived in the on-campus dormitories. This leaves forty-seven percent of the population surveyed who either live at home with their parents or in an apartment with a roommate. A majority of participants, 95.2%, indicated that they were single; 2.8% were married; 1.3% divorced; .2% engaged; .1% widowed and another .1% separated from spouse.

Affect of Demographic Characteristics upon Overall Attitude towards Cohabitation... Since the population surveyed was largely Caucasian efforts to determine if race played a factor in determining attitudes toward cohabitation were largely ineffective. However, the results, indicated in Figure 2, do indicate that Caucasian and Native-American students were more likely to hold a more neutral stance towards the issue, while African American, Hispanic, and Asian-American students were more likely to outright reject this form of living arrangement.

Reasons for such differences in attitude may be that members of racial groups opposed to cohabitation are generally more family oriented and tend to traditionally live in multi-

Figure 2: Level of Support for Cohabitation Based Upon Race



generational households where sense of family is more common than in Caucasian or Native-American households. This is not to say Caucasian or Native-American households are any less family oriented in nature. Table 1 shows percentages of participant attitudes toward cohabitation based upon gender. A majority of respondents indicated they had a neutral attitude, were less supportive of cohabitation, or were least likely to support cohabitation as a form of living arrangement.

Economic Data

When questioned about income sources 54% of respondents (N=506) provided information that was valid. Of these, 28% indicated their main source of income came from their parents, 44% worked and 23% relied upon excess financial aid money to support themselves. Less than one percent of respondents indicated they relied upon financial investments as a source of income.

Participants were asked to rate their financial relationship with parents; as being completely dependant, partially independent, or completely independent. Sixty-one percent of participants answered this question. Approximately 12% indicated they were completely dependant upon their parents for financial support, 41 indicated they were partially dependant upon parents and 8% indicated they were completely independent of their parents for financial support.

Parental Marital History and Happiness Measures

There were 551 valid responses to the item of survey which had participants rate what they thought the level of happiness in their parent's marriage is or was at the time of marriage. Sixty-nine percent of respondents indicated that their parents were not happy in their marriages (Table 2). However, when asked about their parent's marital status while they were living with parents, 75.4% of respondents (N=562) indicated that their parents never divorced, 21% of respondents indicated that one or both parents either were divorced or separated at the time they lived at home with parent(s) (Table 3).

Table 1: Percentage Breakdown of Attitude Questions Based Upon Gender

Population Breakdown: Male N = 357, Female N = 577, Total N = 934

		Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree
Question 1	Male	2%	10%	36%	36%	17%
	Female	1%	7%	35%	38%	19%
Question 2	Male	14%	41%	28%	10%	9%
	Female	10%	35%	23%	20%	12%
Question 3	Male	6%	29%	31%	24%	11%
	Female	5%	26%	25%	29%	15%
Question 4	Male	4%	14%	29%	37%	16%
	Female	4%	13%	25%	42%	15%
Question 5	Male	15%	41%	29%	13%	2%
	Female	11%	46%	26%	15%	2%
Question 6	Male	5%	20%	29%	37%	10%
	Female	3%	18%	24%	40%	15%
Question 7	Male	4%	6%	25%	38%	26%
	Female	2%	7%	16%	45%	31%
Question 8	Male	1%	5%	54%	31%	10%
	Female	0%	2%	44%	39%	15%
Question 9	Male	1%	10%	27%	39%	22%
	Female	1%	4%	18%	42%	35%
Question 10	Male	1%	6%	37%	34%	22%
	Female	0%	3%	34%	38%	25%
Question 11	Male	20%	54%	22%	4%	0%
	Female	15%	63%	18%	3%	1%

Table 2: Participants Ranking of What They Feel Their Parents Level of Marital Happiness Is

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Very Happy	63	6.7	11.4	11.4
	Happy	41	4.4	7.4	18.9
	Neutral	67	7.2	12.2	31.0
	Unhappy	125	13.4	22.7	53.7
	Very Unhappy	255	27.2	46.3	100.0
	Total	551	58.9	100.0	
Missing	System	385	41.1		
Total		936	100.0		

Table 3: Marital Status of Parents While Participants Were Living At Home

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Divorced	103	11.0	18.3	18.3
	Separated	15	1.6	2.7	21.0
	Widowed	13	1.4	2.3	23.3
	Remarried	7	.7	1.2	24.6
	None of the Above	424	45.3	75.4	100.0
	Total	562	60.0	100.0	
Missing	System	374	40.0		
Total		936	100.0		

Political Affiliation and Importance Measures

Of those participants who completed the survey item pertaining to political affiliation (N=563), a slight majority who indicated that they had a party affiliation, indicated that they were Republican (19.3%), with Democrats a close second (13.7%). Those who considered themselves to be Independent made up for a fair number of the respondents as well at 7.7%. However, a number of students (17.7%) indicated that they were undecided as to which party they belonged. Many respondents failed to indicate their level of political ranking, i.e. conservative, moderate, etc., so this factor was not analyzed (Table 4).

Religious Importance

Of the respondents (N=554) who completed the item of survey asking them to rate the importance of religion in their everyday lives, roughly 31% indicated that religion did not play an important role in their lives, 23.5% held a neutral stance toward religion, while nearly 46% of respondents indicated that religion was important to them. From a classification standpoint, only sixty-two participants indicated their religious orientation, so this item was not included in analysis as it was determined that the impact on results would be minimal (Table 5).

Attitude Portion of Survey

*Statement #1...*The traditional family form does not meet the needs of its members. Figure 2, shows that out of all participants, 35% had a neutral and 56% had an unfavorable attitude to this statement. Tables 2 and 3 show that of the 9% who indicated they agreed with this statement came from households where their parents were either divorced or whose parents marital satisfaction level was low. It should be noted that there was no indication within the survey question itself that defined what was meant by "needs", i.e. economic, material, affection, etc.

*Statement #2...*Living together improves your ability to choose the right marriage partner. A majority of students agreed with this statement. Forty-nine percent of students generally favored this statement, 24 percent held a neutral attitude, and 27 percent disagreed with statement.

Table 4: Participants Political Party Affiliation

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Democrat	128	13.7	22.7	22.7
	Republican	181	19.3	32.1	54.9
	Independent	72	7.7	12.8	67.7
	Libertarian	5	.5	.9	68.6
	Other	11	1.2	2.0	70.5
	Unknown	166	17.7	29.5	100.0
	Total	563	60.1	100.0	
Missing	System	373	39.9		
Total		936	100.0		

Table 5: Importance of Religion among Participants

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Very Unimportant	38	4.1	6.9	6.9
	Unimportant	52	5.6	9.4	16.2
	Somewhat Unimportant	81	8.7	14.6	30.9
	Neutral	130	13.9	23.5	54.3
	Somewhat Important	123	13.1	22.2	76.5
	Important	67	7.2	12.1	88.6
	Very Important	63	6.7	11.4	100.0
	Total	554	59.2	100.0	
Missing	System	382	40.8		
Total		936	100.0		

The Traditional Family Form Does Not Meet The Needs Of Its Members

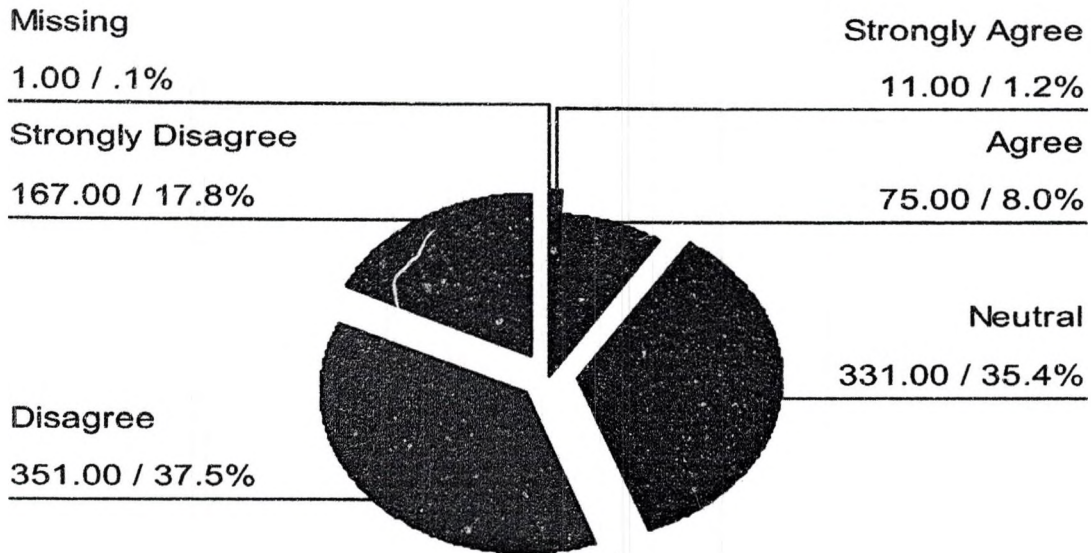


Figure 3: Frequency Distribution for Cohabitation Attitude Scale Question #1

Living Together Improves Your Ability To Choose The Right Marriage Partner

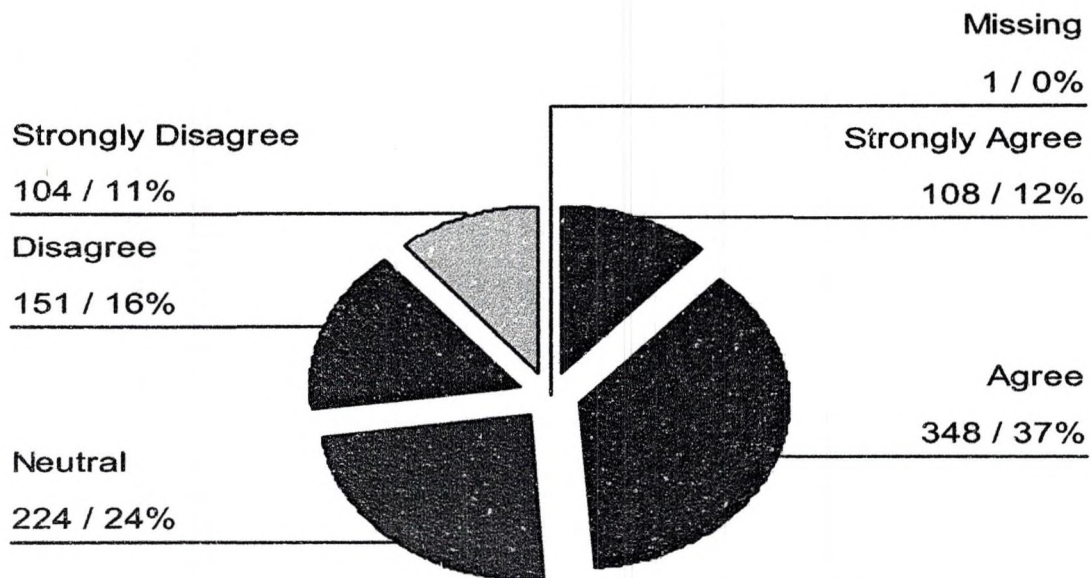


Figure 4: Frequency Distribution for Cohabitation Attitude Scale Question #2

*Statement #3...*Couples living together unmarried is a realistic alternative to the traditional family.

Figure 4 shows that there is no real overwhelming positive or negative attitude toward this statement, especially when those who responded with a neutral attitude towards the statement, could greatly tip the balance in favor of or against it.

*Statement #4...*People living together should receive the same tax benefits as those who are married. About one quarter of respondents supported this statement. Figure 5 shows that nearly three quarters of respondents did not support this statement.

*Statement #5...*If you live together with someone and the relationship ends, it becomes more difficult the next time to be completely open emotionally. Response to this statement was evenly distributed with 5% strongly agreeing, 27% agreeing, 28% having a neutral attitude, 27% disagreeing, and 13% strongly disagreeing with the statement.

*Statement #6...*When two people are secure in their relationship, a marriage contract is unnecessary. Figure 7 shows that most respondents disagreed with this statement. Fifty-one percent of respondents disagreed while forty-nine percent agreed with this statement, the remaining 26% held a neutral attitude for this statement.

*Statement #7...*It is unrealistic to think that two people can live together happily for their whole lives and achieve optimum personal growth. Figure 8 shows 71% of respondents had a negative attitude toward this statement, while 20% had a neutral attitude. Of participants who gave opinion of their parents marital status (MS) while they were still living at home (N=562), 45% indicated that their parents were never divorced, remarried, widowed, etc. while they lived at home. When asked to rate what they thought their parents marital happiness (MH) level was, 40% of participants who responded (N=551), indicated that parents were either unhappy or very unhappy with marriage. When MS and MH were compared using Crosstabs it showed 93.7% of participants who rated their parent's marital happiness as being very unhappy reported that their parents never divorced or separated from one another. However, this number does not reflect those instances where parents lived together but were never married. If participant's responses

**Couples Living Together Unmarried Is A Realistic
Alternative To The Traditional Family**

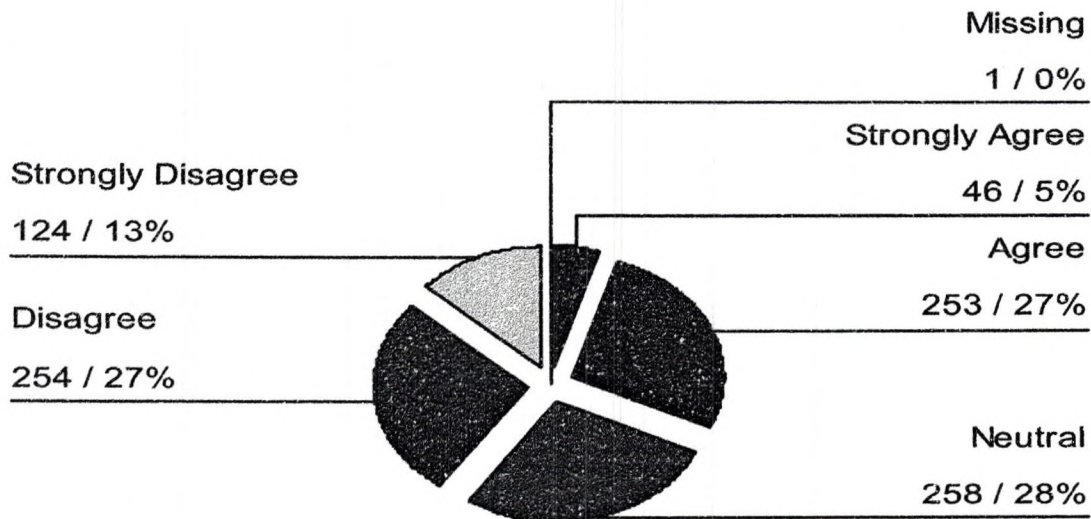


Figure 5: Frequency Distribution for Cohabitation Attitude Scale Question #3

**People Living Together Should Receive
The Same Tax Benefits As Those Who Are Married**

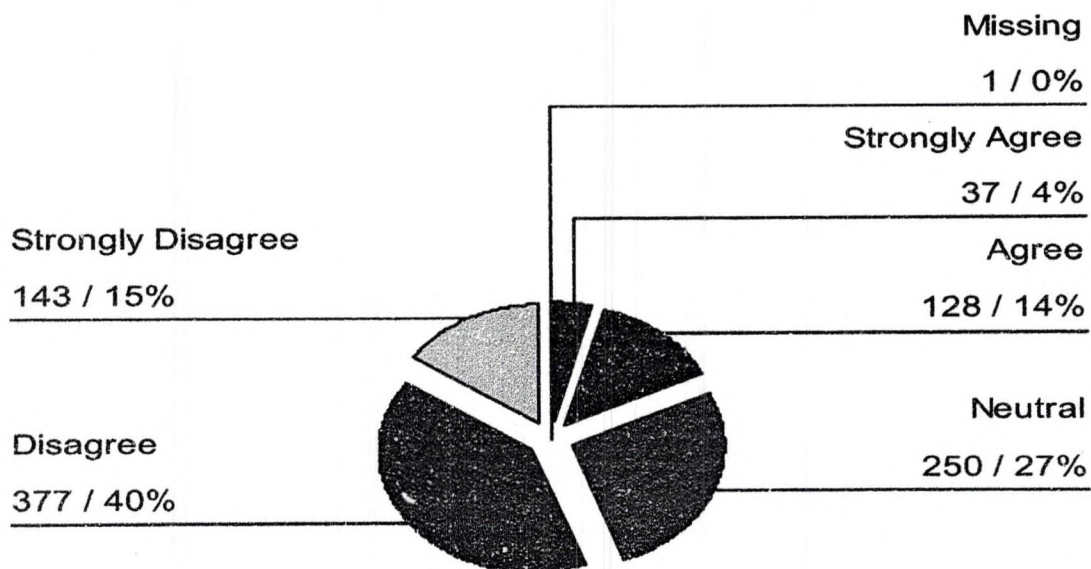


Figure 6: Frequency Distribution for Cohabitation Attitude Scale Question #4

If You Live With Someone And The Relationship Ends It Becomes
More Difficult The Next Time To Be Completely Open Emotionally

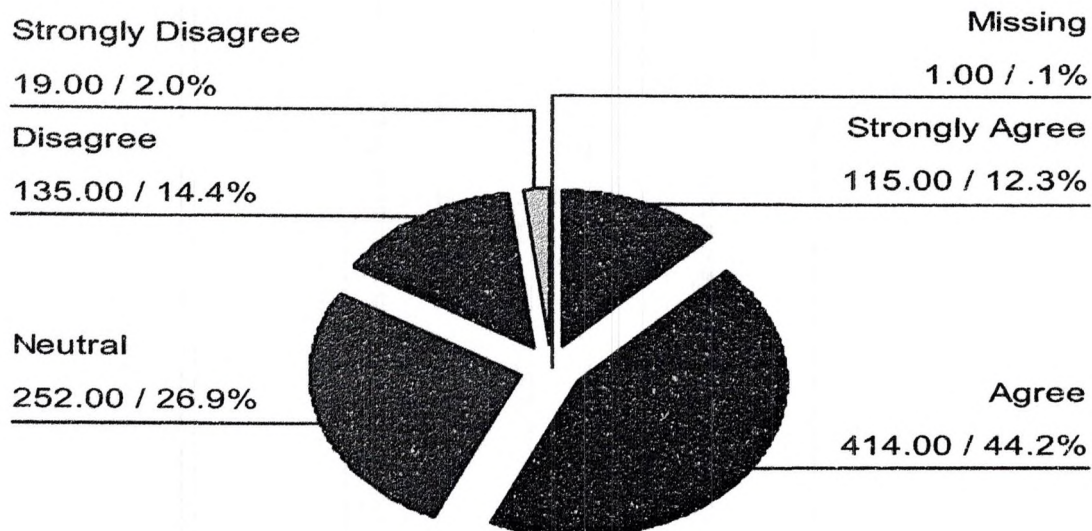


Figure 7: Frequency Distribution for Cohabitation Attitude Scale Question #5

When Two People Are Secure In Their Relationship
A Marriage Contract Is Unnecessary

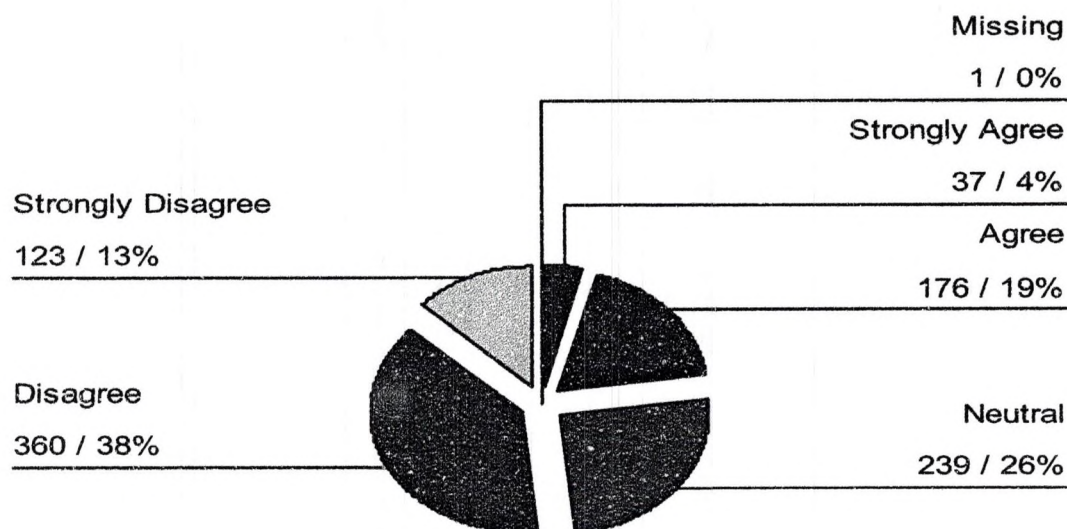


Figure 8: Frequency Distribution for Cohabitation Attitude Scale Question #6

are accurate it might indicate that no matter how unhappy a couple is during a relationship they might tend to stay together to try and work things out rather than end the marriage.

*Statement #8...*Communal living is the only realistic alternative to the disaster of the nuclear family in America. Figure 9 indicates that 96% of respondents had a negative attitude towards this statement. From this one could conclude that the idea of marriage and the traditional family form, or situations resembling them, is a positive one for those that participated in study and that there are various living arrangements that one can enter into.

*Statement 9...*Divorce should be much easier to accomplish. Figure 11 shows most respondents disagreed or held a negative attitude towards this statement. A majority of respondents indicated they favored the institution of marriage and saw the divorce process as being adequate for those wishing to end a marriage.

*Statement 10...*Unmarried couples living together should have children. Despite the narrow margins between support, disagreement and neutrality among participants for some statements, a large number of participants disagreed with this statement. 61% of respondents believed that unmarried couples having children was not a good idea. Another 35% held a neutral attitude. Only 5% held a favorable attitude to the statement.

*Statement #11...*The number of unmarried couples will increase in the next ten years. No matter their attitudes toward cohabitation, a majority of participants indicated they thought that the number of unmarried couples living together would increase in the next ten years. Seventy-six percent of respondents held a favorable view of the statement while another 20% held a neutral attitude. Only 4% disagreed with this statement.

**It Is Unrealistic To Think That Two People Can Live Together
Happily For Their Whole Lives And Achieve Optimum Personal Growth**

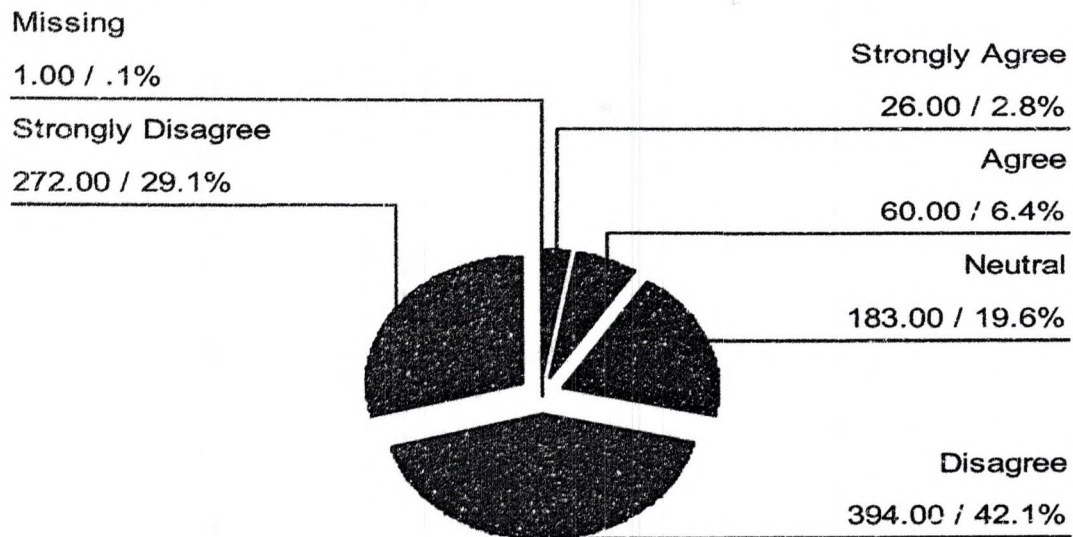


Figure 9: Frequency Distribution for Cohabitation Attitude Scale Question #7

**Communal Living Is The Only Realistic Alternative To The Disaster
Of The Nuclear Family In America**

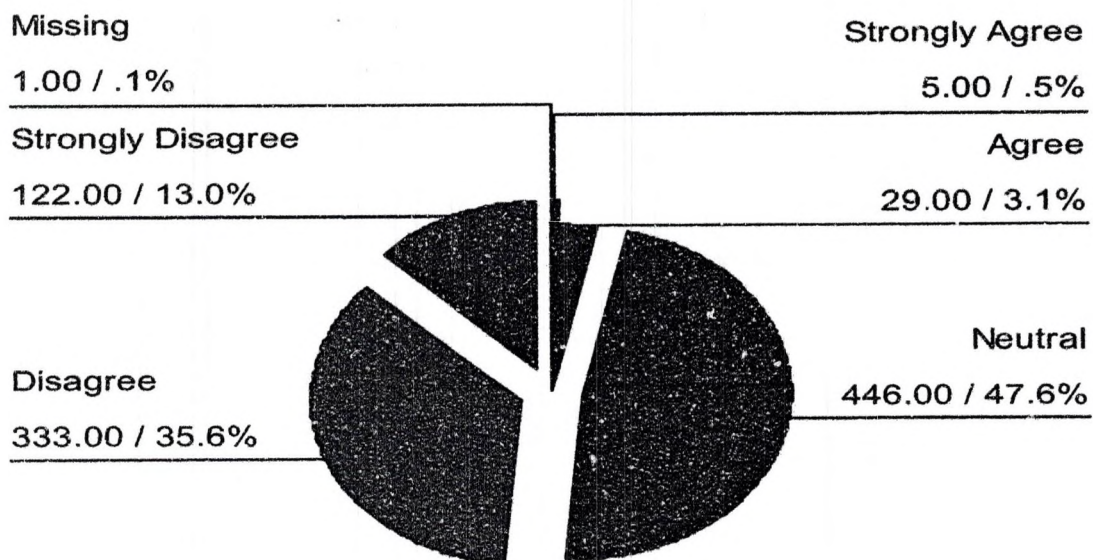


Figure 10: Frequency Distribution for Cohabitation Attitude Scale Question #8

Divorce Should Be Easier To Accomplish

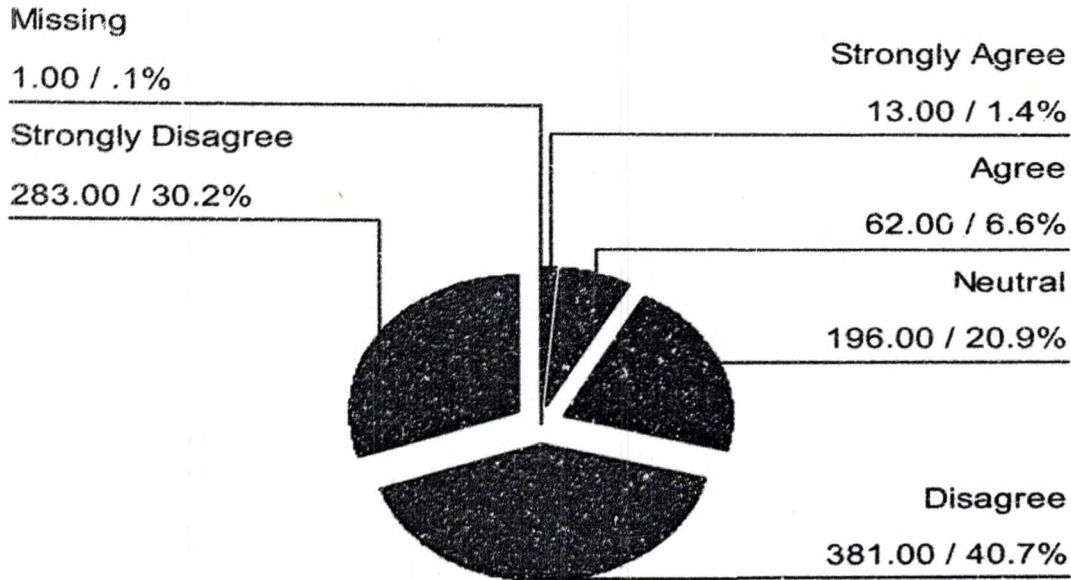


Figure 11: Frequency Distribution for Cohabitation Attitude Scale Question #9

Unmarried Couples Living Together Should Have Children

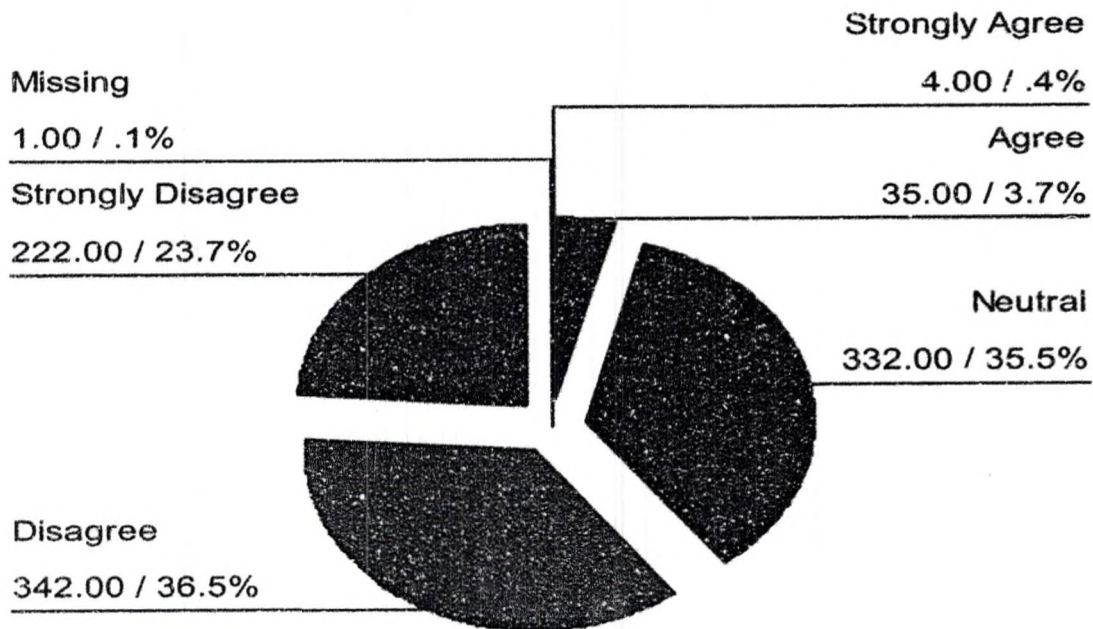


Figure 12: Frequency Distribution for Cohabitation Attitude Scale Question #10

**The Number Of Unmarried Couples Living Together
Will Increase In The Next Ten Years**

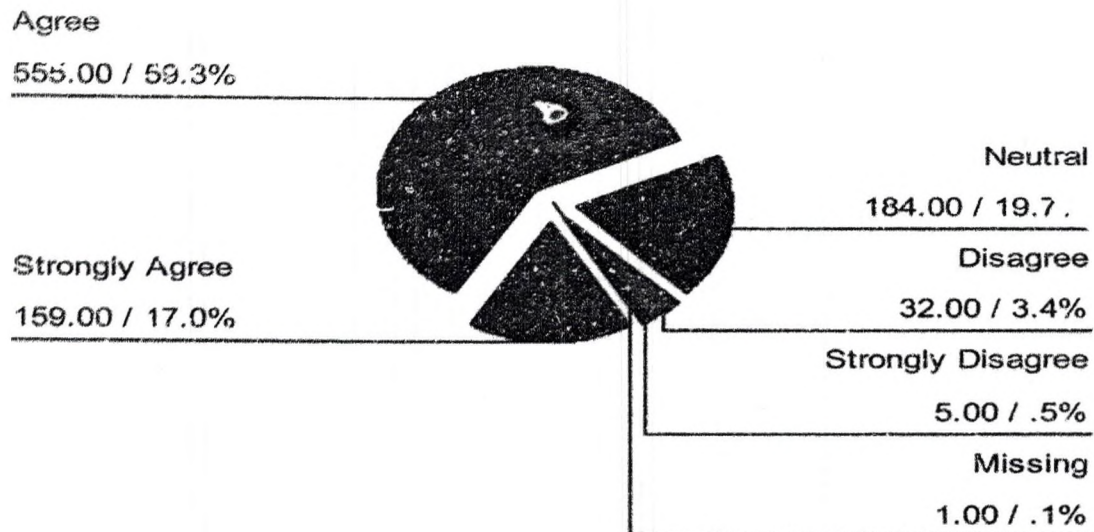


Figure 13: Frequency Distribution for Cohabitation Attitude Scale Question #11

Bivariate Analysis

Additional analysis was conducted on selected variables and attitudinal questions in an attempt to discover why attitudes of participants were so negative towards cohabitation. The variables selected for analysis were religious importance, political orientation, parental marital history, parental marital happiness, and privacy importance. These variables were tested against the following statements to see if any correlation exists between religious, political, parental marital history and happiness and the overall negative attitude towards cohabitation.

- The traditional family form does not meet the needs of its members.
- Living together improves your ability to choose the right marriage partner.
- Couples living together unmarried is a realistic alternative to the traditional family.
- When two people are secure in their relationship a marriage contract is unnecessary.
- Communal living is the only realistic alternative to the disaster of the nuclear family in America.

Table 6 shows descriptive statistics for bivariate analysis. Table 7 shows correlations between selected variables and attitudinal statements. Bivariate analysis was conducted using Pearson Correlation coefficient, 2-Tailed level of significance. Levels of significance at the 0.01 level were moderate when the impact of religious importance upon attitudinal statements was reviewed. Parental marital happiness rating and parental marital status also appears to have some impact upon participant attitudes toward cohabitation though not as much as religious importance. It also appears as though there are very strong correlations between the attitudinal statements themselves which would indicate that the strength of one question would impact attitudes of students on the other questions presented.

Tables 8 shows Chi-Square results for bivariate analyses. Out of all variables, religious importance shows almost perfect correlation to attitude statements, indicating that there is a strong correlation between Religious Importance (RI) and attitudes about cohabitation. Parental marital history and parental marital happiness rating variables also showed some positive correlation in helping to shape attitudes about cohabitation.

Despite the level of importance of religion among students, the matrix shows that many students agree that by living together prior to marriage you are able to better choose a marriage partner. The negative attitudes toward cohabitation indicate that most students believe that the traditional family does support its members and that the notion of traditional family is not one that is fading with the times. Many students felt that the institution of family should be protected and that while there are some instances where a nontraditional family setting suits those who choose to live in them, many of those who responded to survey questions did not think that cohabitation was the best living situation for them.

Table 6: Descriptive Statistics for Bivariate Analysis

	12	.955	N
Religious Importance	4.27	1.674	554
Political Classification	3.16	1.989	563
Living with parents, were they ever:	4.13	1.588	562
Parents marital happiness rating	3.85	1.375	551
How important is privacy to you	1.70	.550	558
Traditional family form does not meet the needs of its members	3.63	.907	935
Living together improves your ability to choose the right marriage partner	2.78	1.181	935
Couples living together is a realistic alternative to the traditional family	3.17	1.115	935
When two people are secure in their relationship, a marriage contract is unnecessary	3.38	1.055	935
Communal living is the only realistic alternative to the disaster of the nuclear family in America	3.58	.775	935

Table 7: Matrix Showing Correlations between Variables and Attitudes for Bivariate Analysis

	RI	PC	MS	MH	PI	N	C	R	S	A
RI	1									
PC	.055	1								
MS	.064	.007	1							
MH	.080	.032	.606**	1						
PI	.074	.006	.024	.083	1					
N	.151**	-.017	.099*	.113**	.021	1				
C	.345**	-.031	.144**	.066	.022	.292**	1			
R	.327**	-.014	.131**	.132**	.012	.307**	.540**	1		
S	.197**	-.059	.095*	.108*	-.007	.198**	.289**	.425**	1	
A	.139**	-.058	.094*	.026	-.015	.359**	.348**	.326**	.224**	1

* Correlation significant at the 0.05 level (2-tailed).

** Correlation significant at the 0.01 level (2-tailed).

RI = Religious Importance

PC = Political Classification

MS = Parental Marital Status

MH = Parental Marital Happiness

PI = Privacy Importance

N = The traditional family form does not meet the needs of its members.

C = Living together improves your ability to choose the right marriage partner

R = Couples living together unmarried is a realistic alternative to the traditional family.

S = When two people are secure in their relationship, a marriage contract is unnecessary.

A = Communal living is the only realistic alternative to the disaster of the nuclear family in America

Table 8: Pearson Chi-Square Test for Relationship between Importance of Religion and Attitudes toward Cohabitation

	Chi-Square Value	df	Assymp. Sig.
Traditional family does not meet needs if its members	42.127	24	.012
Living together improves ability to choose right marriage partner	137.362	24	.000
Couples living together is a realistic alternative to traditional family	126.093	24	.000
When two people are secure in their relationship marriage is unnecessary	80.067	24	.000
Communal living is the only realistic alternative to nuclear family	56.328	24	.000

Table 9: Pearson Chi-Square Test for Relationship between Political Affiliation and Attitudes toward Cohabitation

	Chi-Square Value	df	Assymp. Sig.
Traditional family does not meet needs if its members	27.941	20	.111
Living together improves ability to choose right marriage partner	19.277	20	.504
Couples living together is a realistic alternative to traditional family	24.728	20	.212
When two people are secure in their relationship marriage is unnecessary	38.066	20	..009
Communal living is the only realistic alternative to nuclear family	40.591	20	.004

Table 10: Pearson Chi-Square Test for Relationship between Parental Marital Status and Attitudes toward Cohabitation

	Chi-Square Value	df	Assymp. Sig.
Traditional family does not meet needs if its members	25.361	16	.064
Living together improves ability to choose right marriage partner	19.321	16	.252
Couples living together is a realistic alternative to traditional family	24.426	16	.081
When two people are secure in their relationship marriage is unnecessary	16.815	16	.398
Communal living is the only realistic alternative to nuclear family	17.401	16	.360

Table 11: Pearson Chi-Square Test for Relationship between Parental Marital Happiness and Attitudes toward Cohabitation

	Chi-Square Value	df	Assymp. Sig.
Traditional family does not meet needs if its members	16.165	16	.442
Living together improves ability to choose right marriage partner	20.477	16	.199
Couples living together is a realistic alternative to traditional family	26.844	16	.043
When two people are secure in their relationship marriage is unnecessary	18.315	16	.306
Communal living is the only realistic alternative to nuclear family	8.995	16	.914

Table 12: Pearson Chi-Square Test for Relationship between Importance of Privacy and Attitudes toward Cohabitation

	Chi-Square Value	df	Assymp. Sig.
Traditional family does not meet needs if its members	12.447	12	.411
Living together improves ability to choose right marriage partner	21.505	12	.043
Couples living together is a realistic alternative to traditional family	25.053	12	.015
When two people are secure in their relationship marriage is unnecessary	23.847	12	.021
Communal living is the only realistic alternative to nuclear family	5.075	12	.955

CHAPTER V

CONCLUSIONS

Cohabitation rates continue to increase nationally and in North Dakota. With this in mind, it is becoming more important that understanding and incorporating cohabitation into sociological analysis and thinking is crucial for evaluating family patterns, the life course of individuals, children's well-being, and social change more broadly.

North Dakota's law against cohabitation, though rarely enforced, remains in effect for not just one particular reason, but many...it just depends upon who is doing the interpreting. There are some who see the law as an effective deterrent against fraudulent claims against property, such as in an inheritance or welfare assistance; others see the law as protecting traditional family values, something this state was built upon; while others see the law as a form of societal protection from moral decay by steering many unmarried couples who conceive a child towards marriage and starting a household of their own.

It seemed as though the committee had the right idea to ban cohabitation only if it pertained to fraudulent circumstances. But one must remember that this was the early 1970's, not the turn of the 21st century. Religious influence and convictions remain strong in North Dakota politics, so any chance of having the law against cohabitation repealed will be a long shot for some time.

Though there are some unmarried couples out there who take advantage of the system while living together, who do not embrace the traditional family form as their own, or who have kids and decide to remain unmarried, many of these couples live together for a short period of time, under six months or so, before deciding to marry or cease living together. Many of these relationships therefore should be considered short-term and transitional in nature. Those cohabitational relationships which last longer than a year usually do not result in marriage and as a result they become stagnant over time and dissolve.

With the passage of HB 1448, North Dakota Legislators have added one more piece of legislation to the cohabitation debate. As the law itself is rarely enforced, people who enter into such relationships have little to fear in the eyes of the law. There are many reasons for the lack of enforcement of the cohabitation law in North Dakota.

One reason is that cohabitation has not been viewed as a big a issue as it may have once been, as evident by repeated efforts to have the ban lifted. Additionally, proving a couple is living in a cohabitative relationship, under the guidelines of the current statute, would be very difficult for prosecuting attorneys since they would have to prove the couple is presenting themselves as being married to the public.

Those couples who cheat the system by claiming benefits for which they are not entitled are one of the main reasons why North Dakota keeps its law banning cohabitation. For those seeking to live in a cohabitative relationship, the financial benefits of living together while unmarried far outweigh the legal ramifications of being charged with a crime. By living together they can save money on rent and collect money from various social service programs fraudulently if they choose to do so.

The interest of the government on the other hand far outweighs that of unmarried cohabiters. This is because it is the job of government to protect citizens against social injustices such as crime, poverty, fraud, etc. The government also has an interest in protecting children whom might be growing up in these households. In these households, children face the same challenges and setbacks their parents or guardians did. As a result, each successive generation compounds the problem. Eventually, such activity has a negative effect upon the very elements of a society which formed it, among them being: family, religion, economics, law and education. By leaving the cohabitation law intact, North Dakota legislators are trying to avert a successive generation from making the same mistakes the generation they grew up in did.

The data collected during the course of this project reveals that students hold a favorable view of the traditional family. Many of them believe that they too will eventually enter into a long lasting marriage and follow the examples of their parents. It seems as though that many students look to their parents as role models to follow when making decisions about their relationships. Many

consider their parents marital happiness and history to be a sign of what they too can expect out of a marriage.

Another important variable to consider about attitudes toward cohabitation is the impact of religion. Having a firm foundation in North Dakota, religion plays an important part in the lives of many North Dakotans. That, coupled with the rural mindset allows many to consider the issue of cohabitation to be a non important issue. Non important issues rarely attract much attention and therefore little punishment if they are violated, in this case cohabitation. Many people hold the belief that if it is not something that affects them then they tend to not care about it much.

In summary, the American family has changed drastically over the course of the last thirty-to-forty years, due to the shift in the social and cultural climates which aided in the dramatic increase in cohabitation among unmarried persons of opposite genders. Why people choose cohabitation over marriage has been researched greatly to this point.

It is suggested that further research be conducted which examines cohabitation at a more complete and intimate level. Research should more closely examine the effects of this living arrangement upon those who live in such relationships; the effect cohabitation has upon society at all levels; and what effect cohabitation has upon both the educational and social development of children who are living in those households. By doing so, we can gain a better understanding of the impact of cohabitation upon our state. It is an impact that I think is being ignored and it may come back to hurt us in the long run.

APPENDICES

Appendix A
Consent Form

Consent Form

My name is James Foster and I am a graduate student at the University of North Dakota, seeking my Master of Arts degree in Sociology. I am currently conducting my research toward the completion of my thesis, which deals with cohabitation issues and the laws that are in place against it. At this stage of my research, I am asking students voluntarily complete a survey designed to gather information about current living arrangements and attitudes toward cohabitation. As such, you are invited to complete the attached survey. My research is intended to identify what kind of impact that laws against cohabitation have upon availability of housing in North Dakota. Specifically, I want to discover if students have been refused housing because of their living preference.

If you choose to participate, you will be given a survey to complete. It is important that you do not write on or damage the survey since there are a limited amount of copies. Those who choose to complete the survey will mark their answers on a separate sheet (provided to you). The survey should take no more than ten to fifteen minutes to complete depending upon your current living arrangement and marital status. You will only be asked to fill out this questionnaire once and *will not be identified in any way* with the information that you provide.

All information provided will be held in the strictest confidence. Survey data collected in support of this research will be secured for a period of time not less than three years in a locked cabinet, accessible only by the researcher. At the conclusion of the holding period, the survey results will be shredded and disposed of.

At any time during the completion of the survey instrument, you have the right to discontinue participation. By signing this consent form, you are under no obligation to complete the survey in its entirety, you may stop at any time and your results will not be included in the data analysis. You also have the right to withdraw your consent at any time during the survey process. Your decision whether or not to participate will not change your future relations with the University of North Dakota, any of its colleges, branches, faculty, advisors, or administration. Remember, if at any time you decide not to participate, you are free to discontinue participation at any time without it being held against you.

I am available to answer any questions you may have regarding this study. In addition, you are encouraged to ask any questions concerning this program that you may have in the future. Questions may be asked by calling James Foster at 777-4125 or by e-mail: james_foster@und.nodak.edu Other questions of a non-research nature should be directed to the Office of Program and Research Development at 777-4279.

All who participate will be given a copy of this form.

By signing this consent form, I am stating that all of my questions regarding this study have been answered and I have been encouraged to ask any questions that I may have concerning this study either now or in the future.

Participant Signature

James L. Foster, III
Principle Investigator

Appendix B
Survey Questionnaire

Please circle the answer that best describes your situation.

Section I: Background Information

1. I am
 - A. White
 - B. African-American
 - C. Native-American
 - D. Hispanic
 - E. Pacific Islander
 - F. Asian
 - G. Other: _____ (please specify)
2. What is your current age? _____
3. What is your gender? A. Male B. Female
4. Please indicate your present marital status
 - A. Single
 - B. Married
 - C. Separated
 - D. Divorced
 - E. Widowed

* If currently married please **STOP** here. Complete **Section III**. Thank you!

5. Do you live in an apartment by yourself? A. Yes B. No
* If yes, please **STOP** here. Complete Section III. Thank You!
6. Do you currently live in the dorms? A. Yes B. No
* If yes, please **STOP** here. Complete Section III. Thank You!
7. I am currently employed: A. Yes B. No
8. I presently work:
 - A. 40+ hours a week
 - B. 30-39 hours a week
 - C. 20-29 hours a week
 - D. 15-20 hours a week
 - E. Less than 15 hours a week
9. I currently work in:
 - A. Retail / Sales
 - B. Fast-Food
 - C. Clerical
 - D. Manual Labor
 - E. Other: _____ (please specify)

10. My main (majority) source of income comes from:
- A. Parents
 - B. Other Relatives
 - C. Job
 - D. Excess Financial Aid
 - E. Investments / Stocks
11. Which of the following best describes your current financial relationship with your parents?
- A. Completely independent
 - B. Partially independent
 - C. Completely dependent upon parents
12. In what social class, to the best of your knowledge, were you raised?
- A. Working-Class
 - B. Middle-Class
 - C. Upper-Middle Class
 - D. Upper-Class
13. In what social class do you consider yourself now?
- A. Working-Class
 - B. Middle-Class
 - C. Upper-Middle Class
 - D. Upper-Class
14. How would you classify yourself religiously?
- A. Catholic
 - B. Protestant
 - C. Jewish
 - D. Agnostic
 - E. Atheist
 - F. None
 - G. Other: _____
(please specify)
15. How important do you consider religion in your everyday life?
- A. Very Important
 - B. Moderately Important
 - C. Not Important
16. In what size community did you spend your childhood? State: _____
- A. Small Town (under 10,000 pop.)
 - B. Medium Sized Town (10,000-25,000 pop.)
 - C. Small City (25,000-80,000 pop.)
 - D. Medium Sized City (80,000-200,000 pop.)
 - E. Large City (over 200,000 pop.)
17. How would you characterize yourself politically? (Circle one in each column)
- | | |
|----------------|-----------------|
| A. Democrat | A. Conservative |
| B. Republican | B. Moderate |
| C. Independent | C. Liberal |
| D. Libertarian | D. Radical |
| E. Other | E. Not Sure |
| F. Unknown | |

18. What was your class standing in high school?
- A. Top 10%
 - B. 10-25%
 - C. 25-50%
 - D. 50-75%
 - E. Bottom quarter
 - F. Unsure of class rank
19. While you were living with your parents, were they ever:
- A. Divorced
 - B. Separated
 - C. Widowed
 - D. Remarried
 - E. None of the Above
20. Would you classify your parents' marriage as:
- A. Very Happy
 - B. Happy
 - C. Neither Happy or Unhappy
 - D. Unhappy
 - E. Very Unhappy
21. How important is privacy to you?
- A. Extremely Important
 - B. Important
 - C. Not Very Important
 - D. Unimportant

Section II: Cohabitation Survey

1. I am currently living with a non-relative member of the opposite sex.
- A. Yes
 - B. No (If No, please skip to Section III. Thank You!)
2. How long have you lived together_____?
3. Have you ever been married? A. Yes B. No
4. Do you have any children? A Yes B. No If yes, how many?_____
5. Do you think that you will eventually marry the person you are living with? A. Yes B. No C. Don't know at this time
6. Does the subject of marriage come up often between you and the person you are living with? A. Yes B. No

7. Financial arrangements: Please X the appropriate category.

Who pays for the following:

	I Pay	Partner Pays	Share	No Arrangement
Rent	_____	_____	_____	_____
Food	_____	_____	_____	_____
Household Items	_____	_____	_____	_____
Appliances	_____	_____	_____	_____
Clothing	_____	_____	_____	_____
Gas & Electric	_____	_____	_____	_____

8. Who is making more money? _____

9. Do you keep your money in the same bank account? ____Yes ____No

10. What types of things are you typically responsible for?

- ____Cooking
- ____Cleaning
- ____Taking Out Garbage
- ____Other

11. When you think about the relationship in which you live, do you think:

- ____Living together without marriage is the only situation in which I can be happy.
- ____I am happy living together, but probably would feel as happy if we were married.
- ____There are other living situations in which I would feel happier.
- ____I am unhappy about living together.

Section III: Cohabitation Attitude Scale

Please indicate your feelings toward each of the following statements by placing an X next to only one of the following for each statement

Strongly Agree (SA)

Agree (A)

Neutral (N)

Disagree (D)

Strongly Disagree (SD)

1. The traditional family form does not meet the needs of its members.
2. Living together improves your ability to choose the right marriage partner.
3. Couples living together unmarried is a realistic alternative to the traditional family.
4. People living together should receive the same tax benefits as those who are married.
5. If you live with someone and the relationship ends, it becomes more difficult the next time to be completely open emotionally.
6. When two people are secure in their relationship, a marriage contract is unnecessary.
7. It is unrealistic to think that two people can live together happily for their whole lives and achieve optimum personal growth.
8. Communal living is the only realistic alternative to the disaster of the nuclear family in America.
9. Divorce should be much easier to accomplish.
10. Unmarried couples living together should have children.
11. The number of unmarried couples will increase in the next ten years.

(1)___SA ___A ___N ___D ___SD

(2)___SA ___A ___N ___D ___SD

(3)___SA ___A ___N ___D ___SD

(4)___SA ___A ___N ___D ___SD

(5)___SA ___A ___N ___D ___SD

(6)___SA ___A ___N ___D ___SD

(7)___SA ___A ___N ___D ___SD

(8)___SA ___A ___N ___D ___SD

(9)___SA ___A ___N ___D ___SD

(10)___SA ___A ___N ___D ___SD

(11)___SA ___A ___N ___D ___SD

Appendix C

Outline of Evolutionary Differences in Cohabitive vs. Traditional Dating Relations

Outline of Evolutionary Differences in Cohabitive vs. Traditional Dating Relations

- I. Start of Relationship
 - a. Couple A: Cohabiting Couple---Living Together
 - i. Joint or Separate Checking Accounts
 - ii. Some Separate and Combined Bills
 - b. Couple B: Dating (Traditional Couple)—Living Apart
 - i. Separate Checking Accounts
 - ii. Separate Bills
- II. Economic Recession---both relationships are affected by economic problems caused by economic recession. Couple A faces prospect of temporary separation while Couple B faces a disruption in the relationship and not the living arrangement as they are already living apart. Both relationships eventually recover.
- III. Recovery
 - a. Couple A
 - i. Stronger Bond
 - ii. Children
 - iii. Decide to Get Married
 - b. Couple B
 - i. Stronger Bond
 - ii. Commitment
 - iii. Decide to Get Married
- IV. Marriage
 - a. Couple A
 - i. Continue to live as they have been—only change is woman's last name.
 - ii. Children
 - iii. Economic Progress
 - iv. More children
 - b. Couple B
 - i. Begin living together under one household
 - ii. Sharing of income and household responsibilities
 - iii. Economic Progress
 - iv. Children
- V. Significant period of time passes and second economic recession sets in.
 - a. Both couples experience economic struggle and eventual separation which ultimately leads to divorce.

Note: This example is not representative of all relationships---this example is trying to show that these relationships, while dissimilar in development, are similar in ultimate outcome.

Appendix D
Various Family Structures and Definitions of Each.

Various Family Structures and Definitions of Each.

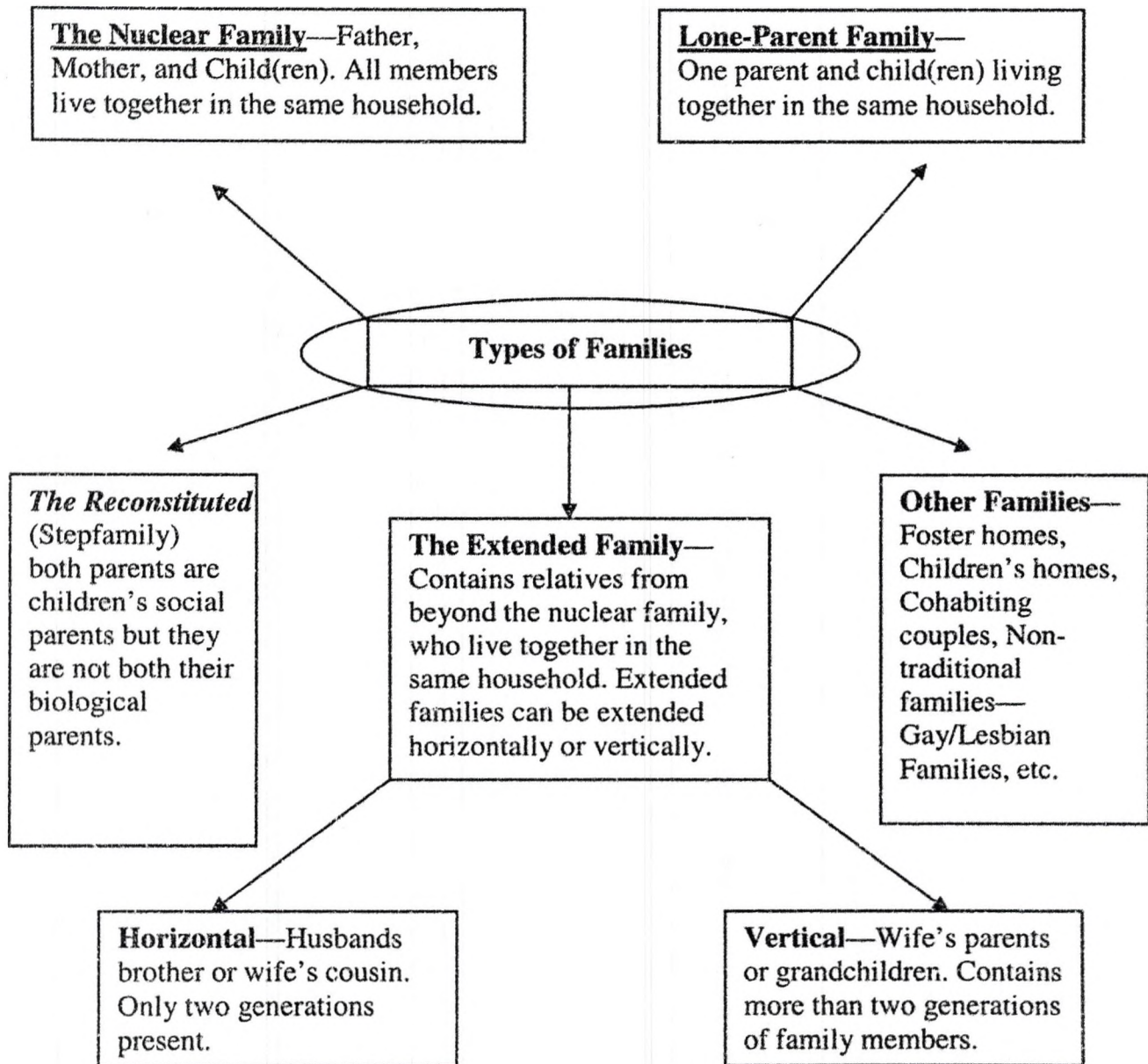


Figure 14: Various Family Structures and Definitions of Each

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